



CLEARFIELD CITY COUNCIL
AGENDA AND SUMMARY REPORT
November 25, 2025 - POLICY MEETING

Meetings of the City Council of Clearfield City may be conducted via electronic means pursuant to Utah Code Ann. § 52-4-207 as amended. In such circumstances, contact will be established and maintained via electronic means and the meetings will be conducted pursuant to the Electronic Meetings Policy established by the City Council for electronic meetings.

55 South State Street
Third Floor
Clearfield, Utah

7:00 P.M. POLICY MEETING

CALL TO ORDER:

Mayor Mark Shepherd

OPENING CEREMONY:

Pledge of Allegiance
Solemn Moment of Reflection
Council Member Roper

APPROVAL OF MINUTES:

October 28, 2025 – policy meeting

PRESENTATIONS:

1. **FORMAL RECOGNITION OF CLEARFIELD CITY BECOMING A JUSTSERVE PARTICIPANT**

PUBLIC HEARINGS:

2. **RECEIVE PUBLIC COMMENT ON A PROPOSED ZONING TEXT AMENDMENT TO ADD “TRAILER SALES” AS A PERMITTED USE IN THE TOWN MIXED COMMERCE DISTRICT (TC ZONE) WITH DEVELOPMENT STANDARDS**

BACKGROUND: Pursuant to the Municipal Land Use, Development, and Management Act (LUDMA), the City adopted the Downtown Form-Based Code (FBC) in 2020. The FBC established several zoning districts, including the TC Zone, which has never listed “Trailer Sales” as a permitted use. It does, however, allow Motor Vehicle Sales with development standards. Following discussions with various parties, the Council directed staff to initiate a text amendment to add “Trailer Sales” as a permitted use in the TC Zone, subject to development standards.

RECOMMENDATION: Receive public comment.

3. RECEIVE PUBLIC COMMENT ON THE ADOPTION OF A WATER USE AND PRESERVATION PLAN TO THE CITY'S GENERAL PLAN IN ACCORDANCE WITH UTAH STATE CODE REQUIREMENTS

BACKGROUND: Recent changes to Utah Code Ann. §10-20-401 have necessitated an amendment of the City's General Plan to include a water use and preservation element that complies with §10-20-404 and §73-10-32 by December 31, 2025. The City was awarded a grant by the State of Utah Department of Natural Resources Division of Water Resources to complete the plan, and FFKR Architects was hired as consultant.

RECOMMENDATION: Receive public comment.

4. RECEIVE PUBLIC COMMENT ON A PROPOSED ZONING TEXT AMENDMENT TO PERMIT DETACHED ACCESSORY DWELLING UNITS (DADUs) IN SELECT ZONES AND TO ADOPT DADU DEVELOPMENT STANDARDS

BACKGROUND: After adopting an Internal Accessory Dwelling Unit ordinance in September of 2021, Staff was tasked with creating an ordinance for Detached Accessory Dwelling Units (DADUs) that would align with the City's Moderate Income Housing Plan strategy to reduce regulations related to detached accessory dwelling units in residential zones. After several meetings with the City Council and Planning Commission and reviewing ordinances from various surrounding cities, two draft ordinances have been created for the Council's consideration.

RECOMMENDATION: Receive public comment.

SCHEDULED ITEMS:

5. OPEN COMMENT PERIOD

The Open Comment Period provides an opportunity to address the Mayor and City Council regarding concerns or ideas on any topic relevant to city business. To be considerate of everyone at this meeting, public comment will be limited to three minutes per person. Participants are to state their names for the record. Comments, which cannot be made within these limits, should be submitted in writing to the City Recorder at nancy.dean@clearfieldcity.org.

The Mayor and City Council encourage civil discourse for everyone who participates in the meeting.

6. CONSIDER APPROVAL OF ORDINANCE 2025-22 TO ADD "TRAILER SALES" AS A PERMITTED USE IN THE TOWN MIXED COMMERCE DISTRICT (TC ZONE) WITH DEVELOPMENT STANDARDS

RECOMMENDATION: Approve Ordinance 2025-22 adding "Trailer Sales" as a permitted use in the Town Mixed Commerce District (TC Zone) with development standards and authorize the mayor's signature to any necessary documents.

7. CONSIDER APPROVAL OF ORDINANCE 2025-23 AMENDING TITLE 11 OF THE CLEARFIELD CITY CODE INCORPORATING DETACHED ACCESSORY DWELLING UNITS AND DEVELOPMENT STANDARDS

RECOMMENDATION: Approve Ordinance 2025-23 amending Title 11 of the Clearfield City Code to incorporate Detached Accessory Dwelling Units and Development Standards and authorize the mayor's signature to any necessary documents.

8. CONSIDER APPROVAL OF ORDINANCE 2025-24 AMENDING TITLE 4 – BUSINESS AND LICENSE REGULATIONS

BACKGROUND: Staff has prepared a series of updates to Title 4 – Business and License Regulations to ensure alignment with recent state legislation, to modernize existing code language, and improve clarity and consistency across the chapters. These updates are intended to ensure the City's business licensing regulations remain up to date, legally compliant, and reflective of current practices.

RECOMMENDATION: Approve Ordinance 2025-24 amending Title 4 – Business and License Regulations and authorize the mayor's signature to any necessary documents.

9. CONSIDER APPROVAL OF ORDINANCE 2025-25 ADOPTING THE WATER USE AND PRESERVATION PLAN ELEMENT TO THE CITY'S GENERAL PLAN

RECOMMENDATION: Approve Ordinance 2025-25 adopting the Water Use and Preservation Plan element to the City's General Plan and authorize the mayor's signature to any necessary documents.

10. CONSIDER APPROVAL OF RESOLUTION 2025R-14 AUTHORIZING AN AMENDMENT TO THE INTERLOCAL COOPERATION TRANSPORTATION PROJECT REIMBURSEMENT AGREEMENT WITH DAVIS COUNTY TO RECEIVE 3RD QUARTER SALES TAX FOR THE 500 WEST EXTENSION PROJECT FUNDING

RECOMMENDATION: Approve Resolution 2025R-14 authorizing Amendment No. 1 to the Interlocal Cooperation Transportation Project Reimbursement Agreement to receive third quarter sales tax and authorize the mayor's signature to any necessary documents.

COMMUNICATION ITEMS:

- A. Mayor's Report
- B. City Council's Reports
- C. City Manager's Report
- D. Staff Reports

*****ADJOURN AS THE CITY COUNCIL*****

Posted on November 21, 2025.

/s/Chersty Titensor, Deputy City Recorder

The City of Clearfield, in accordance with the ‘Americans with Disabilities Act’ provides accommodations and auxiliary communicative aids and services for all those citizens needing assistance. Persons requesting these accommodations for City sponsored public meetings, service programs or events should call Nancy Dean at 801-525-2714, giving her 48-hour notice.

The complete public notice is posted on the Utah Public Notice Website - www.utah.gov/pmn/, the Clearfield City Website - clearfield.city, and at Clearfield City Hall, 55 South State Street, Clearfield, UT 84015. To request a copy of the public notice or for additional inquiries please contact Nancy Dean at Clearfield City, Nancy.dean@clearfieldcity.org & 801-525-2700.

CLEARFIELD CITY COUNCIL MEETING MINUTES
7:00 PM POLICY MEETING
October 28, 2025

City Building
55 South State Street
Clearfield City, Utah

These meeting minutes were created with the aid of an AI-powered transcription and summarization tool – Otter.ai and ChatGPT. The output was used as a draft and was subject to human review, editing, and fact-checking to ensure accuracy and compliance with city standards before publication. The City Clerk is responsible for the final content of these minutes.

PRESIDING: Mayor Pro Tem Nike Peterson

PRESENT: Mayor Mark Shepherd (via Teams), Councilmember Tim Roper, Mayor Pro Tem Nike Peterson, Councilmember Karece Thompson, Councilmember Megan Ratchford

ABSENT: Councilmember Dakota Wurth

STAFF PRESENT: City Attorney Stuart Williams, Police Chief Kelly Bennett, Community Services Director Eric Howes, Community Services Deputy Director Curtis Dickson, Finance Manager Rich Knapp, Public Works Director Adam Favero, Communications Manager Shaundra Rushton, City Recorder Nancy Dean, Deputy City Recorder Chersty Titensor

VISITORS: Danielle King, Mark & Leann Weekes, Daren & Mary Coleman, Rachel, Link, Johnny Musselman, Megan Coleman, Ref Coleman, Carson Coleman, Ryan Coleman, Shyanne Durrant, Barbara Bloomfield, Anthone Iatoshi, Jim Phillips, Paul & Lyn Meyer, Jon Atkin, Derek Green, a number of unnamed fire fighters from North Davis Fire District

Mayor Pro Tem Nike Peterson called the meeting to order at 7:03 p.m.

Councilmember Ratchford led the opening ceremony.

APPROVAL OF MINUTES

October 7, 2025 – work meeting

October 14, 2025 – work meeting

October 14, 2025 – policy meeting

Councilmember Ratchford moved to approve the October 7, 2025 work meeting, October 14, 2025 work meeting, and October 14, 2025 policy meeting, seconded by Councilmember Thompson.

RESULT: Passed [4 TO 0]

YES: Councilmember Roper, Councilmember Peterson, Councilmember Thompson,

Councilmember Ratchford

NO: None

ABSENT: Councilmember Dakota Wurth

RECOGNITION OF RETIRING FIREFIGHTERS BATTALION CHIEF MARK WEEKES
AND DAREN COLEMAN

The council celebrated the retirement of two long-serving members of the fire service — Chief Mark Weekes and Firefighter Daren Coleman — both of whom had extensive careers beginning with the Clearfield Fire Department and continuing through the transition to the North Davis Fire District. Councilmember Peterson highlighted their roles in shaping the department's growth and fostering collaboration among Clearfield, West Point, and Sunset communities.

Chief Weekes shared stories from his 36-year career, emphasizing the progress from minimal staffing to a robust department of over 50 firefighters. Daren Coleman reflected on his 37 years of service, recalling his start in 1988 and the evolution of emergency response from 300 to more than 4,500 calls annually. Both retirees were honored for their leadership, dedication, and mentorship. Their families, Mary and Leanne, were also recognized for their decades of support behind the scenes.

PRESENT WINNERS OF THE 2025 YARD OF THE YEAR CONTEST

The council presented the 2025 Yard of the Year awards. Community Services Director Eric Howes and Deputy Director Curtis Dickson explained that Parks and Recreation Commissioners evaluated homes throughout the year, recognizing residents who enhanced neighborhood beauty and community pride. The first-place award went to Paul and Merlyn Meyer, and the runner-up awards were presented to Joanie and Boyd Phillips and Bob and LaRue Hawthorne, who were not present. Each couple shared stories of their gardening experiences and offered advice to others about creating enjoyable, sustainable landscapes.

OPEN COMMENT PERIOD

There were no open comments.

UPDATE ON THE FISCAL YEAR 2026 FIRST QUARTER FINANCIAL STATUS

Finance Manager Rich Knapp presented the first-quarter fiscal year 2026 financial update. He reported a 10% increase in summer water consumption compared to the previous year, noting both city growth and improved metering. Investment earnings for fiscal year 2025 exceeded expectations, generating \$2.6 million across all funds. However, he cautioned that future revenues would likely decrease due to reduced cash reserves and lower interest rates.

Mr. Knapp also detailed a statewide sales tax administrative fee increase from 0.65% to 0.8% beginning January 2026. He expected it would reduce city revenue by approximately \$11,000 annually. He noted sales tax revenue was trending 4.3% higher than the previous year, while energy tax collections were lagging, prompting continued monitoring. Expenditures were

tracking appropriately at 23% of the annual budget, and the Fourth of July event came in under budget.

COMMUNICATION ITEMS

MAYOR'S REPORT

Mayor Shepherd

- Mayor Shepherd, speaking remotely from a defense conference in California, commended the retiring firefighters for their combined 73 years of service and congratulated the Year of the Year winners.

CITY COUNCIL'S REPORTS

Mayor Pro Tem Nike Peterson

- Councilmember Peterson acknowledged the recent passing of Josh Brimhall, expressing condolences to his family and colleagues in the Clearfield and South Davis Metro communities.

Councilmember Ratchford

- Councilmember Ratchford reported on upcoming military and community events, including the Military Information and Outreach event at Weber State Davis on November 13, 2025, and a Citizen Police Academy Alumni fundraiser on November 15, 2025. She also encouraged community volunteerism with local military family services.

Councilmember Thompson

- Expressed gratitude to Chief Weekes and Daren Coleman.
- Nothing further to report.

Councilmember Roper

- Councilmember Roper announced the Open Doors donation luncheon scheduled for November 4, 2025, and highlighted local efforts to provide meals for families in need through the "Something Wicked" café. He reminded residents to continue supporting neighbors in need year-round.

STAFF REPORTS

Nancy R. Dean, City Recorder

- Ms. Dean reminded Council about the upcoming municipal election on November 4, 2025, with ballots already distributed, and noted that meetings for November 4, 2025 and November 11, 2025, were canceled and would resume November 18, 2025 following the Veterans Day holiday.

Shaundra Rushton, Communications Manager

- Ms. Rushton shared updates from the city's Domestic Violence Awareness Month campaign, explaining that staff wore purple to show solidarity and provided education about available local resources. She and Councilmember Roper emphasized the city's victim advocate program and the Open Doors respite nursery, which offered short-term childcare to support struggling families.

Councilmember Thompson moved to adjourn at 7:48 p.m., seconded by Councilmember Roper.

RESULT: Passed [4 TO 0]

YES: Councilmember Roper, Councilmember Peterson, Councilmember Thompson, Councilmember Ratchford

NO: None

ABSENT: Councilmember Dakota Wurth

**APPROVED AND ADOPTED
This day of 2025**

/s/ Mark R. Shepherd, Mayor

ATTEST:

/s/ Nancy R. Dean, City Recorder

I hereby certify that the foregoing represents a true, accurate, and complete record of the Clearfield City Council meeting held Tuesday, October 28, 2025.

/s/ Nancy R. Dean, City Recorder

TO: Mayor Shepherd and City Council Members

FROM: Tyson Stoddard, Planner

MEETING DATE: November 25, 2025

SUBJECT: Public Hearing, Discussion, and Possible Action on ZTA 2025-1002, a zoning text amendment request by Clearfield City to add "Trailer Sales" as a permitted use in the Town Mixed Commerce District (TC Zone) with development standards. (Legislative Matter).

RECOMMENDED ACTION

The Planning Commission forwarded a recommendation of APPROVAL of ZTA 2025-1002 to the City Council, a zoning text amendment request by Clearfield City to add "Trailer Sales" as a permitted use in the TC Zone with development standards. The vote was six (6) for approval and none (0) against.

DESCRIPTION / BACKGROUND

Pursuant to the Municipal Land Use, Development, and Management Act, (LUDMA), found in Title 10, Chapter 9a of the Utah State Code, the city adopted the Downtown Form Based Code (FBC) in 2020. The FBC includes several specific zones, one of which is the TC Zone. Since the TC Zone was adopted in 2020, it has not included "Trailer Sales" as a permitted use. However, the TC Zone does include Motor Vehicle Sales as a permitted use with development standards. Clearfield City Code defines a motor vehicle as a "self-propelled vehicle intended primarily for use and operation on the highways." A trailer is separately defined as "a vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle..."

Earlier this year, a trailer sales business purchased property in the TC Zone at 562 South State Street, where Chariot Auto was previously located. The property was purchased with the intent to open a trailer sales business, selling various types of trailers such as utility, cargo, flatbed, and dump trailers. A zoning determination request was submitted to the city, and a letter was issued in June of 2025 by the Planning and Zoning Administrator which determined that "Trailer Sales" was an "Unlisted Dissimilar Use," and therefore not permitted in the TC Zone. After communication between the potential business, the Property Rights Ombudsman's Office, and the City Council, the Council gave direction to staff to initiate a zoning text amendment to include "Trailer Sales" as a permitted use in the TC Zone with development standards.

PROPOSED ZONING TEXT AMENDMENT AND ANALYSIS

Proposed Change to FBC Text

Staff is recommending that "Trailer Sales" be a "Permitted Use" within the TC Zone, subject to specific "Development Standards." The following summary of changes to the FBC are provided:

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1. Section 3.3 of the FBC provides “Use Type Standards.” “Trailer Sales” will be added under subsection 3, “Retail Uses.”
 2. Table 3.3 (1) and Table 3.3 (2) of the FBC provide a list of “Permitted Uses by Zone” and “Permitted Uses by Building Type.” “Trailer Sales w/Outdoor Sales Lot” will be added to the use tables and listed as “Permitted with Development Standards” in the TC Zone for Commercial building types.
 3. Section 3.4 of the FBC provides “Use Development Standards” broken into “Development Standards by Use Category.” A new paragraph specific to trailer sales is proposed to be added to “Retail Uses”, providing specific development standards related to property size, trailer display, and trailer stacking. “Vehicle Services” is amended to explicitly establish a use limitation for repair and wash facilities for trailers.

Anticipated Initial Impact of Amendment

Since approximately 2000, a used car lot was in operation in the TC Zone at 562 South State Street. If the text is changed as proposed, staff anticipates that a business license will be sought and issued for a new business to begin selling trailers at this location.

Staff is unaware of any other single or grouping of parcels that are currently being considered by others for a “Trailer Sales” use in the TC Zone. Staff believes it is highly unlikely that additional locations in the TC Zone will be used to conduct “Trailer Sales” given the need to purchase and combine multiple parcels, remove existing structures, alter infrastructure, etc.

Creation of Future Legal Nonconforming Use

Staff acknowledges that any future change in zoning related to “Trailer Sales” within the TC Zone may result in the creation of a legal nonconforming use allowing for the continued ability to conduct “Trailer Sales” at this parcel.

Motor Vehicle Sales and Trailer Sales Continue as Distinct and Different Uses

The city will continue to treat “Motor Vehicle Sales” and “Trailer Sales” as distinct and different uses within the city, as reflected in city code.

General Plan Analysis

In reviewing any ordinance amendment or rezone, it is important to consult with the current General Plan to review the relevant topics or elements of the General Plan, along with the community goals, objectives, and strategies to help inform land use decisions. There are community vision objectives associated with “Economy and Fiscal Responsibility” that can be evaluated in relation to the request, which are listed below.

Economy and Fiscal Responsibility

Clearfield aims to have a robust economy producing a diverse revenue stream for the City, supporting livability, community wellbeing, and offering amenities and services that create a vibrant, healthy city.



<i>Objectives & Strategies</i>	<i>Staff Analysis</i>
<u>Objective:</u> Maintain Clearfield’s status as a leading employment and jobs center in Davis County and the State of Utah. <u>Relevant Strategy EF-1:</u> Continue to seek out and encourage new employment opportunities and commercial businesses and support the expansion of existing entities in the City’s growth centers. <u>Relevant Strategy EF-7:</u> Support living wage, family-sustaining job opportunities and careers in Clearfield.	This objective can be supported by allowing for a land use (Trailer Sales) in our Urban Center that is not currently permitted under current zoning regulations. The amendment would allow for a new type of business that would include various opportunities for employment in Downtown Clearfield.
<u>Objective:</u> Continue efforts to transform Downtown Clearfield into a vibrant center of activity and gathering spaces. <u>Relevant Strategy EF-1:</u> Continue to seek out and encourage new employment opportunities and commercial businesses and support the expansion of existing entities in the City’s growth centers.	The proposed amendment would allow for a successful Utah business that is interested in expanding their operation to include conducting “Trailer Sales” in Downtown Clearfield, which would bring additional commercial activity to the area. While a “Trailer Sales” use would not be considered a gathering space, the Downtown Form Based code anticipates a wide variety of uses, including commercial, residential, retail, service, and civic uses.
<u>Objective:</u> Foster and retain the City’s diverse range of businesses and commercial enterprises. <u>Relevant Strategy EF-1:</u> Continue to seek out and encourage new employment opportunities and commercial businesses and support the expansion of existing entities in the City’s growth centers.	The proposed amendment would foster a diverse range of businesses and commercial enterprises, and include greater diversification by allowing an additional land use that is not currently permitted.

Zoning Text Amendment Analysis

Clearfield Land Use Ordinance Section 11-6-3 establishes the following findings the Planning Commission shall make to approve Zoning Ordinance Text Amendments. The findings and staff’s evaluation are outlined below.

<i>Review Consideration</i>	<i>Staff Analysis</i>
The proposed amendment is in accordance with the General Plan and Map; or	The General Plan encourages continual evaluation and modifications to adopted ordinances. The proposed amendment is supported by objectives and strategies related to the “Economy and Fiscal Responsibility” section of the General Plan.



Changed conditions make the proposed amendment necessary to fulfill the purposes of this Title.	A previous business was recently closed, leaving a property in Downtown vacant. A potential business is interested in operating in Downtown, but the intended use is not currently permitted. These conditions have led to an amendment request that is supportive of the purposes of Title 11 which include protecting the tax base, securing economy, and fostering the city's industries.
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CORRESPONDING POLICY PRIORITIES

- Improving Clearfield's Image, Livability, and Economy

The amendment would allow for employment opportunities in Downtown, additional commercial activity, and help foster a diverse range of businesses and commercial enterprises in the city.

HEDGEHOG SCORE

Not considered

FISCAL IMPACT

The proposed amendment would allow a successful Utah business to locate in Downtown Clearfield, on a lot that is currently vacant. Staff anticipates that the business will seek a business license and open in Clearfield, which would bring additional sales tax revenue to the city.

ALTERNATIVES

Following careful consideration of the information included in this report, the Planning Commission may choose to forward the following recommendations:

1. Approve the zoning text amendment request by Clearfield City to add "Trailer Sales" as a permitted use in the TC Zone with development standards.
2. Deny the zoning text amendment request by Clearfield City to add "Trailer Sales" as a permitted use in the TC Zone with development standards.
3. Table the zoning text amendment request to a specific date and request additional information for consideration.

SCHEDULE / TIME CONSTRAINTS



The potential trailer sales business is looking to open as soon as possible.

LIST OF ATTACHMENTS

- Proposed Trailer Sales Text Amendment

Proposed FBC Changes for Trailer Sales (ZTA 2025-1002)

Change 1

3.3 Use Type Standards

3. Retail Uses

- Trailer Sales

Change 2

Table 3.3 (1) Permitted Uses by Zone

“Trailer Sales w/Outdoor Sales Lot” will be added to the Use Table and the table will reflect that the use is “Permitted with Development Standards” in the TC Zone by adding “D” to the TC column.

Table 3.3 (2) Permitted Uses by Building Type

“Trailer Sales w/Outdoor Sales Lot” will be added to the Use Table and the table will reflect that the use is “Permitted with Development Standards” in a “Commercial” building type by adding “D” to the CM column.

Change 3

3.4 Use Development Standards

1. Development Standards by Use Category

(2) Retail Uses

(a) Pawn and secondhand businesses are limited to a maximum of 5,000 square feet of retail space in the TR zone. This includes pawn and secondhand businesses for general merchandise, military surplus, precious metals and/or gems dealers/processors.

(b) Motor vehicle sales shall have a 1 acre minimum lot size; a permanent on-site office is required. No cars may be displayed outside within 10 feet of the primary street right of way.

(c) Trailer sales shall have a 1.5 acre minimum lot size; a permanent on-site office is required. No trailers may be displayed within 10 feet of a street right-of-way. Trailers displayed between the primary street right-of-way and the primary street facing façade of the on-site office shall maintain a minimum separation of three feet (3') between each trailer. Stacking of trailers for display purposes is not permitted

between the primary street right-of-way and the primary street facing façade of the on-site office or within fifty feet (50') of an abutting secondary street. Trailers stacked for display shall not exceed a total height of twelve feet (12'). Trailers stacked for the purpose of receiving multiple trailers or to prepare for the removal of multiple trailers shall be stacked no longer than seventy-two (72) hours.

(3) Service Uses

(a) Vehicle Services

- (i) Vehicle repair is only allowed as a secondary use to vehicle sales.
- (ii) Use Limitation. Repair and wash facilities for semitrucks, recreational vehicles, boats, trailers, and other oversized vehicles are not permitted.
- (iii) Service Bays. Vehicular service bays, including garages and car wash bays, shall not be located on the front facade, unless otherwise permitted by the Building Type. Service bay doors shall be transparent.
- (iv) Outdoor Storage. Disabled or inoperable vehicles and those awaiting pick-up may be stored outdoors if:
 - i. Vehicles are not stored for more than two days.
 - ii. The storage area is located in the rear yard and screened from view of the front lot line and/or corner lot line.
 - ii. The storage area is screened using the Side & Rear yard buffer outlined in 7.0 Landscape, regardless of the adjacent land uses.

(v) Outdoor Activities

- i. All repairs or washing activities must occur inside a structure.
- ii. Vacuuming activities may occur outdoors, but must be located in the side or rear yards, screened from the front lot line.
- iii. Temporary outdoor display of seasonal items, such as windshield wiper fluid or salt, is permitted during business hours under the canopy and adjacent to the principal structure.

(vi) Fuel pumps must be in rear or side of building.

TO: Mayor Shepherd and City Council Members

FROM: Tyson Stoddard, Planner

MEETING DATE: November 25, 2025

SUBJECT: Public Hearing, Discussion, and Possible Action on GPA 2025-1003, a general plan amendment request to consider the adoption of a Water Use and Preservation Plan in accordance with Utah State Code requirements to integrate water considerations into land use planning for present and future needs of the community. (Legislative Matter).

RECOMMENDED ACTION

The Planning Commission forwarded a recommendation of APPROVAL to the City Council of GPA 2025-1003, a general plan amendment request to consider the adoption of a Water Use and Preservation Plan. The vote was six (6) in favor and none (0) against.

DESCRIPTION / BACKGROUND

Due to State legislative requirements, Clearfield City is required to adopt a water use and preservation element, integrated with the General Plan by December 31, 2025. The city was awarded a grant by the State of Utah Department of Natural Resources Division of Water Resources to complete the plan, and FFKR Architects was hired as consultant. Specific considerations required to be in the plan are:

- The effect of permitted development or development patterns on water demand and water infrastructure by developing a water budget.
- Methods of reducing water demand and per capita water use for existing development.
- Methods of reducing water demand and per capita water use for future development.
- Modifications that can be made to a local government's operations to reduce and eliminate wasteful water practices.

The Planning Commission discussed the General Plan water element on October 1, 2025. Following the discussion, a DRAFT plan was prepared and distributed for review among Community Development, Public Works, and Community Services staff, as well as Division of Water Resources staff. Following review comments, an updated DRAFT was included in the Planning Commission packet in preparation for a Public Hearing and recommendation to the City Council.

CORRESPONDING POLICY PRIORITIES

- Providing Quality Municipal Services

Water use and preservation planning helps ensure a sustainable and reliable supply for residents and businesses, which is essential for public health and economic growth.



HEDGEHOG SCORE

Not considered

FISCAL IMPACT

A focus on efficient water use and preservation will contribute to the city's ability to operate under existing water contracts with Weber Basin Conservancy District, foregoing or delaying the need to purchase more water at a higher price.

ALTERNATIVES

Following careful consideration and analysis of the DRAFT Water Use and Preservation Plan, the City Council may choose to from the following options:

1. Approve the general plan amendment request to consider the adoption of a Water Use and Preservation Plan in accordance with Utah State Code requirements to integrate water considerations into land use planning for present and future needs of the community.
2. Deny the general plan amendment request to consider the adoption of a Water Use and Preservation Plan in accordance with Utah State Code requirements to integrate water considerations into land use planning for present and future needs of the community.
3. Table the general plan amendment request to a specific date and request additional information for consideration.

SCHEDULE / TIME CONSTRAINTS

Due to State legislative requirements, Clearfield City is required to adopt the water use and preservation element by December 31, 2025. Adoption Timeline:

- November 5, 2025 – Public Hearing with Planning Commission. Obtain recommendation to City Council for the adoption of the Water Use and Preservation Plan.
- November 18, 2025 – Work Session with Clearfield City Council to discuss the Water Use and Preservation Plan as recommended by the Planning Commission.
- November 25, 2025 – Public Hearing and Policy Session with Clearfield City Council to consider adoption of the Water Use and Preservation Plan.

LIST OF ATTACHMENTS

- Water Use and Preservation Plan Draft

CLEARFIELD CITY WATER USE & PRESERVATION PLAN 2025



DRAFT
NOVEMBER 2025

ACKNOWLEDGMENTS

MAYOR

Mark Shepherd

CITY COUNCIL

Nike Peterson

Megan Ratchford

Tim Roper

Karece Thompson

Dakota Wurth

PLANNING COMMISSION

Robert Browning

Nicholas Dragon

Brogan Fullmer

Chad Mortensen

Kathryn Murray

Danielle Sikes

Brian Swan

Riley Wheeler

Jane Budd, *Youth Commission Ambassador*

CONSULTANT TEAM

FFKR

CITY STAFF

JJ Allen, *City Manager*

Spencer Brimley, *Assistant City Manager*

Stacy Millgate, *Community Development Director*

Brad McIlrath, *Senior Planner (former)*

Tyson Stoddard, *Planner*

Eric Howes, *Community Services Director*

Adam Favero, *Public Works Director*

Braden Felix, *City Engineer*

Adaon Fish, *Water Supervisor*

Shaundra Rushton, *Communication Manager*

Jayden Martin, *Communication Coordinator*

REGIONAL AND STATE PARTNERS

Weber Basin Conservancy

State of Utah Division of Water Resources,
Department of Natural Resources

State of Utah Division of Drinking Water, Department
of Environmental Quality

State of Utah Department of Agriculture

*Funding support for the Water Use and Preservation
Plan provided through the Division of Water
Resources.*



CHAPTER ONE: INTRODUCTION

1.1 WELCOME

WHAT IS THE WATER ELEMENT AND WHY DOES IT MATTER?

This water use and preservation element of Clearfield's General Plan is a key step in creating a holistic, integrated path toward a more sustainable water future. The integration of water and land use planning is a critical action to ensure future water supplies can meet the demands related to our growth.

Because water seems so readily available, the relative scarcity of water in Utah's semi-arid climate often is overlooked. A large factor in our water use is the high proportion of water, often culinary, used outdoors to irrigate landscaped yards for homes, businesses, schools, churches, and government buildings, as well as our parks, open spaces, and recreational fields. Our land use development patterns, including lot sizes, configuration of landscaped areas, and irrigation practices all play a role in how much water we use at different times of the year.

Utah is one of the highest water users in the United States while also being one of the driest states. Our state also remains one of the fastest growing in the nation. By the year 2065, the population of Utah is expected to double, with a projected population of approximately 6 million people. With growth comes demand for water and an increasing burden on our water resources. To support the anticipated growth of the state's population and economic viability, we must make our state more resilient by better integrating water and land use planning. **Where and how we grow matters.**

With a growing population, Clearfield City has actively implemented a water conservation framework for the community, resulting in reduced water use per capita over the past decade. **Clearfield is helping to make a difference!**

DOES CLEARFIELD NEED A WATER ELEMENT?

Yes. Each City and Town is required by [Utah Code](#) to prepare and adopt a comprehensive, long-range general plan. Recognizing the inherent connection between land use and water consumption and a critical need for action, Utah passed SB110 in 2022 and SB76 in 2023. By integrating water considerations into our land use planning, we have a significant opportunity to collectively reduce water use in our region and statewide.



Image: Tree planting; Clearfield City

USING THE ELEMENT

The Water Use and Preservation Element of the General Plan is not just for City Staff and Officials. Here are some examples of who can use the element and why/how:

City Staff and Officials use this element of the General Plan to guide their decisions and to adopt or update policies and regulations related to water and land use. It can help when prioritizing budget-related decisions on capital improvements.

Residents, Business Owners, Property Owners, and Developers can use this element of the General Plan to understand the direction the city is taking related to water and land use. This helps them understand how that impacts the choices they have regarding their property, business, or development.

Regional Partners and Agencies can refer to this element of the General Plan to understand the water and land use strategies Clearfield City has adopted to support regional and statewide goals for water conservation.

1.2 KEY TERMS

The Water Use and Preservation Element uses terms and acronyms that may not be familiar to everyone or are not well understood. This section provides an overview of key terms.

Watershed: A watershed is the area of land from which water drains into a river, stream, or other waterbody. Water flows from the land into a waterbody by way of rivers and streams, and underground through groundwater aquifers. The rivers and streams that flow into a larger waterbody are called tributaries. The word “watershed” is sometimes used interchangeably with drainage basin or catchment. Watersheds consist of surface water—lakes, streams, reservoirs, and wetlands—and all the underlying groundwater. **Clearfield is part of the Weber River Basin, which contains two sub-basins, the Lower Weber and the Upper Weber.** The Weber River Basin is one of the five main sub-basins that drain into the Great Salt Lake.

Water Infrastructure: The complex network of human-made and natural systems that collect, treat, store, transport, and distribute water. The water infrastructure system also manages wastewater and stormwater.

Acre-feet per year (AF/year): An acre-foot is the volume that would cover one acre of land to a depth of one foot. One acre-foot equals 325,851 gallons.

Gallons per capita per day (gpcd): The amount of water used by one person in one day. This is a standard metric used for evaluating a community’s water use. It is typically calculated by taking the water used in a geographical area and dividing this amount by the population of that area.



Image: Rain barrel harvesting; USU Extension

DID YOU KNOW?

Rainwater harvesting is legal in Utah!

As of 2010, all Utahns are allowed to collect up to 2,500 gallons of rainwater. Rainwater harvesting is the practice of collecting and storing precipitation for later use. This technique has been around for thousands of years and was used by Native Americans in our region. Currently, rain barrels are commonly used to harvest rain. Rain barrels are an example of green infrastructure, such as rain gardens, green roofs, and permeable pavers.

However, if a residence is collecting rainwater in more than two containers (or any container exceeds 100 gallons), they must register with the Division of Water Rights. There is no charge for this registration.

Potable water: Also known as **culinary water or drinking water**. This water comes from surface and ground water sources and is treated to levels that meet state and federal standards for human consumption. Water that has not been treated may make you sick. Public water utilities remove harmful germs and chemicals to make tap water safe to drink. Potable (pō-tə-bəl; rhymes with quotable and notable) comes from the Latin word potare, which means to drink.

Secondary water: Also known as irrigation water. This is untreated, unfiltered water typically used for irrigation of agricultural fields, outdoor residential landscaping, and gardening. It comes directly from surface waters and is stored in large, open-air reservoirs. It contains pathogens that can cause serious illness and is not suitable for consumption by humans or pets. (see Non-potable water)

Graywater: Graywater is wastewater from bathtubs, sinks, showers, and clothes washing machines and can be used to save potable water. Graywater is not considered potable water, although it can replace potable water to irrigate plants, and fill toilets. Using graywater helps reduce the burden on wastewater treatment plants, by reusing water for different purposes, therefore saving potable consumption. Graywater systems in Utah are regulated by Utah code (R317-401), which provides jurisdiction to local health departments for administration.

Non-potable water: (see Secondary water above) Non-potable water is taken from lakes, rivers, and ground water and has not been treated, and therefore would not be safe to drink, shower, or bathe in.

Blackwater: What comes out of the toilet is considered black water and must be sent to a wastewater treatment plant.



Water audits: Audits consist of checking the irrigation system and making suggestions on ways it could be more efficient. A simple field soil test will determine general soil type and texture, which impacts how much water to use and when. A catch-cup test will determine how quickly the sprinklers are applying water to the lawn and determine how uniform the water is being applied. Water audits are designed to help property owners be as efficient as possible with landscape irrigation.

Flip your Strip: Flip Your Strip (FYS) is a rebate program administered by Weber Basin Water Conservancy District and is intended to remove turf from park strips and create attractive, low-water alternatives. Park strips can be one of the largest water wasting areas of a landscape because they are often narrow and can't be watered effectively when planted with turf. <http://www.utahwatersavers.com/>

Landscape Lawn Exchange: Landscape Lawn Exchange (LLE) is an incentive program administered by Weber Basin Water Conservancy District and aimed at converting high water consuming turf with low-water landscape materials, including native plants. The program provides the incentive of a nominal amount per square foot for any area of a current yard that is covered in lawn and is replaced with a more water-efficient alternative. <https://mywaterutah.org/>

Water-wise Landscaping: An approach to landscaping that requires limited or no irrigation, often used in arid regions. Also known as xeriscaping, it is an attractive, sustainable landscape that conserves water by using native plants and is based on sound horticultural practices. It is NOT no landscape, or zero-scape with no plants. The term "xeriscape" was coined in the Denver area in 1981 as part of response to water shortages and is, in fact, a registered trademark of the Office of Water Conservation, Denver Water. The term was created by combining "landscape" and the Greek word "xeros," which means dry.

CHAPTER TWO: CONTEXT



Steed Pond; purchased by Clearfield City in 2008 to help support storm water retention.

2.1 LOCAL CONTEXT

Clearfield City continues to experience growth and change along with our region and state. Clearfield has evolved from an early agricultural settlement into a vibrant, diverse community with a mix of post-World War II residential neighborhoods, parks, open space, and commercial areas.

In 2025, Clearfield City has an estimated 35,000 residents, reflecting a growth of 16% since 2010. As of April 2025, Clearfield had an estimated 12,798 housing units. Of these, approximately 45% are detached single-family homes, 21% are attached single-family homes, and 34% are multi-family dwelling units.

Containing 7.7 square miles, Clearfield is surrounded by other cities. With little vacant land, growth will primarily occur through small scale infill development or larger-scale redevelopment. **This growth is primarily anticipated in key centers.**

CLEARFIELD'S WATER SUPPLY & CONNECTIONS

Water Sources & Average Annual Use in acre-feet from each (2016-2020):

Weber Basin: 4,561 (74%)

Hill Field Well: 542 (9%)

Freeport North Well: 526 (9%)

Freeport South Well: 362 (6%)

Reservoir Well: 192 (3%)

Number of connections [as of 2024] and percentage of total connections:

Residential: 6,856 [91.4%]

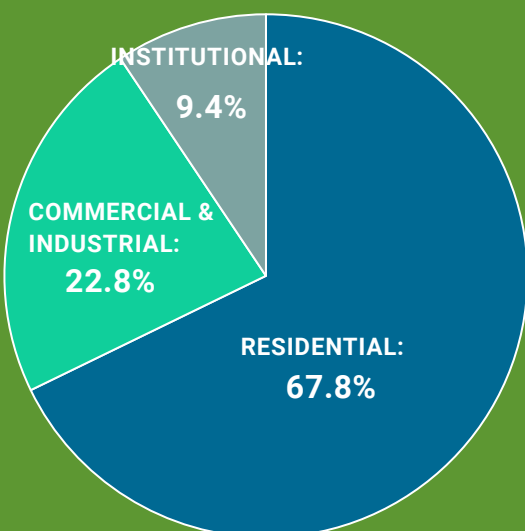
Commercial & Industrial: 615 [8.2%]

Institutional: 32 [0.4%]

Total connections: 7,503

While residential connections reflect 92.4% of all connections, these connections use only 67.8% of water supplied by Clearfield City.

Percentage of water used by each category of connection [in 2024]:



2.2 WATER PROFILE

Clearfield City provides water service to residential, commercial, recreational, and industrial entities located within the city boundaries. The majority of Clearfield's water supply is used for the City's residential neighborhoods.

Clearfield's water supply comes from a diversity of sources, including water distributed from the Weber Basin Water Conservancy District and four City wells. A fifth City well (200 South Well) is inactive. This diversity of sources is important and ensures a level of redundancy in unexpected and/or emergency situations.

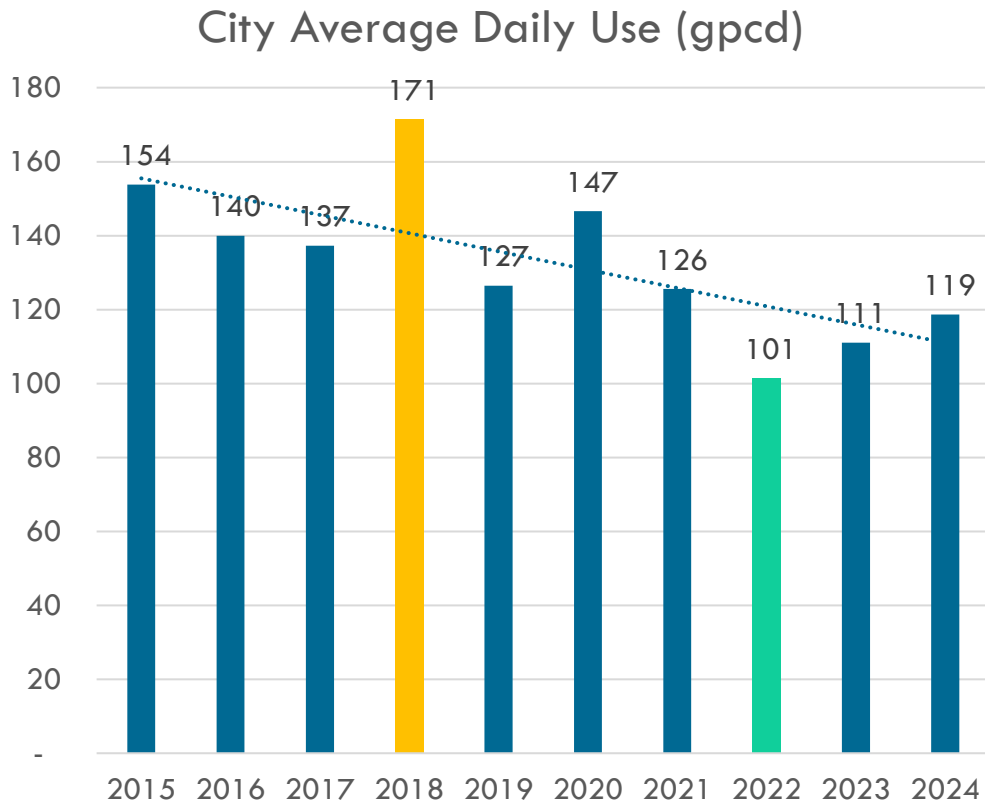
The City prioritizes the purchase of most of its water from Weber Basin and only uses its wells during peak summer months and during emergencies.

While the City has the capacity to produce more water from its wells, it is currently constrained by groundwater conditions. Over the past 50 years, the ground water levels in the East Shore area of the Great Salt Lake have declined as much as 50 feet. While over 5,900 wells have been constructed in this East Shore area, most of the discharge is from about 200 wells that supply municipalities and industrial users.

Clearfield has significant water storage capacity to accommodate projected growth, with the ability to hold 13.32 million gallons in its storage tanks.

Clearfield's water use per capita per day has been steadily decreasing, reflecting progress toward the City's water conservation goals.

In 2024, the five-year average for water use (2020-2024) was 121 gpcd, a decrease from the 2019 five-year average (2015-2019) of 145 gpcd.



2.2 WATER PROFILE (CONT.)

SECONDARY WATER

A small percentage of Clearfield (less than 10%) uses secondary water, which is diverted from the south branch of the Davis-Weber Canal. The Davis and Weber Counties Canal Company (DWCCC) owns and manages the Davis-Weber Canal system and distribution of the water for irrigation uses. Secondary water systems are seasonal and typically provide irrigation water between mid-April to mid-October. Secondary water systems must be metered by 2030 to meet state requirements.

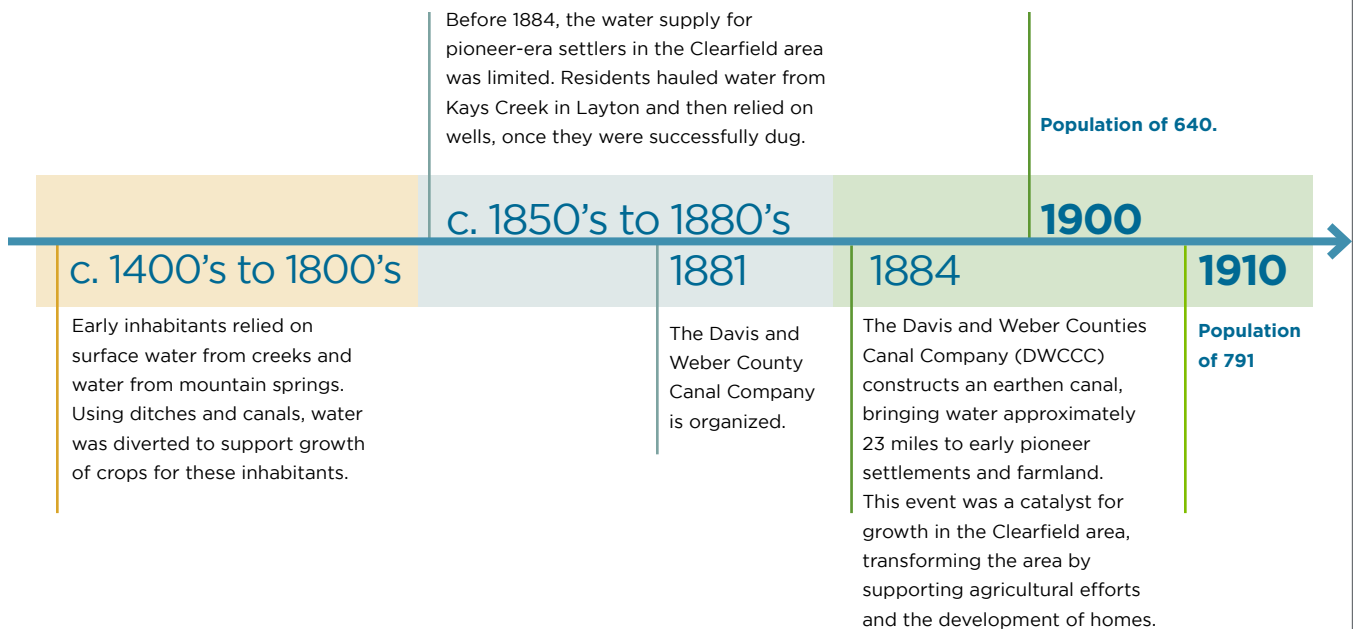
In Clearfield, the DWCCC delivers irrigation water from the Davis-Weber Canal to a few private irrigation companies, including Home & Garden Irrigation Company, South Clearfield Pipeline Company, and Clearfield Irrigation. These companies, in turn, distribute the water to property owners. Once the water leaves the Davis-Weber Canal, the responsibility to maintain the water and the delivery system is with the individual "Ditch Masters."

The use of a city-wide secondary water irrigation system in Clearfield is constrained by the capital costs of installing the transmission and distribution system to reach the end users. Developing a system in the future may be possible if the City were to pursue grants and/or special funding from the state or federal government. Clearfield City retains a total of 171 secondary water shares from the DWCCC, Clearfield Irrigation, and Layton City. Some of these shares are used to fill Steed Pond and irrigate portions of Bicentennial Park.

2.3 CLEARFIELD'S WATER & GROWTH

Human settlement is intrinsically linked to water availability, with freshwater for survival and irrigation for agriculture. Clearfield's settlement, growth, and evolution are linked to the supply and availability of water. Clearfield was one of the last communities in northern Davis County to be settled. Water availability and Clearfield's evolution are summarized in six key eras and their related events.

1. Native American Settlement & Inhabitation
2. Pioneer Settlement & Inhabitation
3. Agricultural Community & Incorporation
4. Military and Industrial Establishment
5. Suburban Residential Development
6. Downtown Revitalization and Transit-Oriented Community



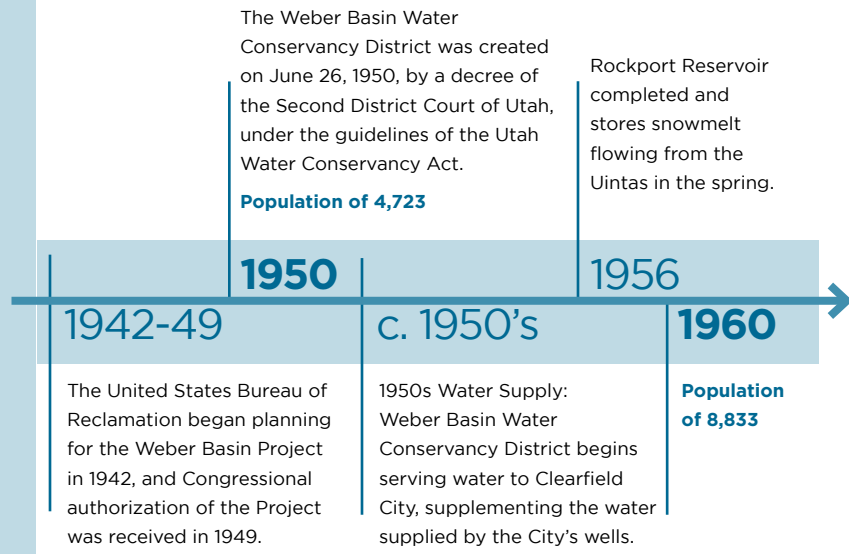
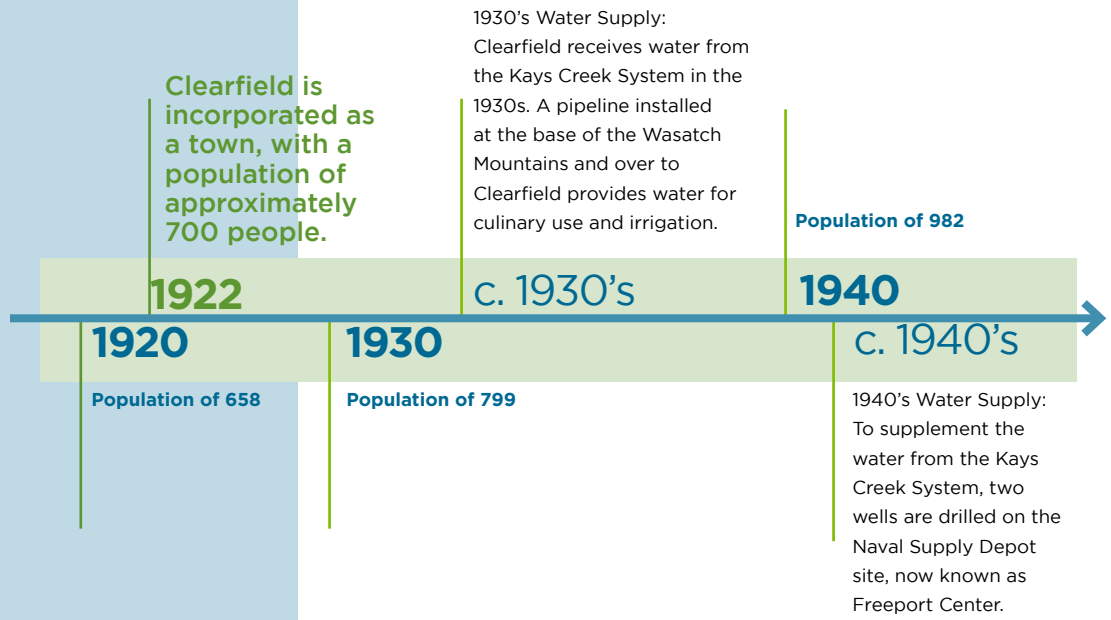
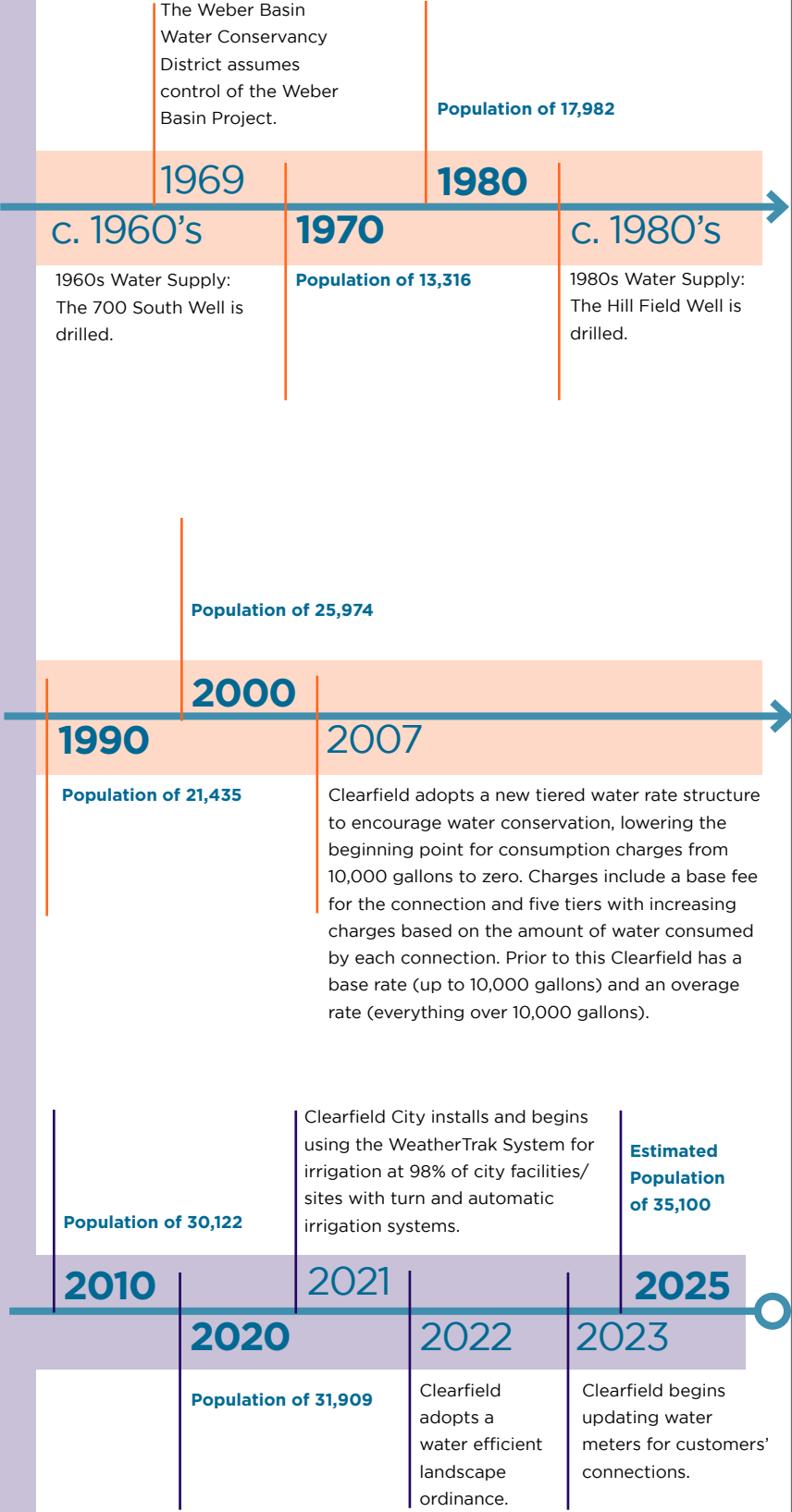
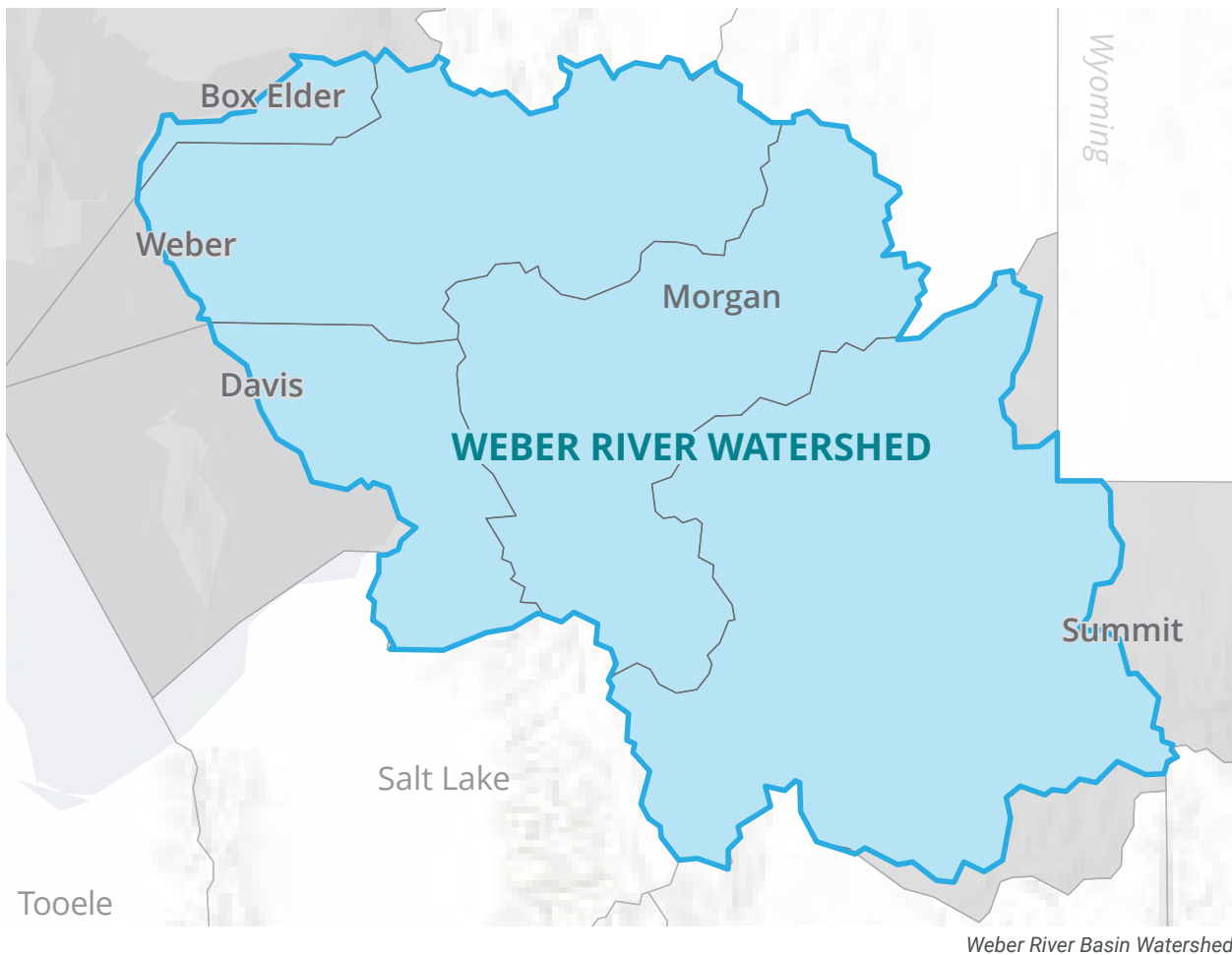


Image: Weber Basin Water Conservancy District



Image: South Steed Park; Clearfield City





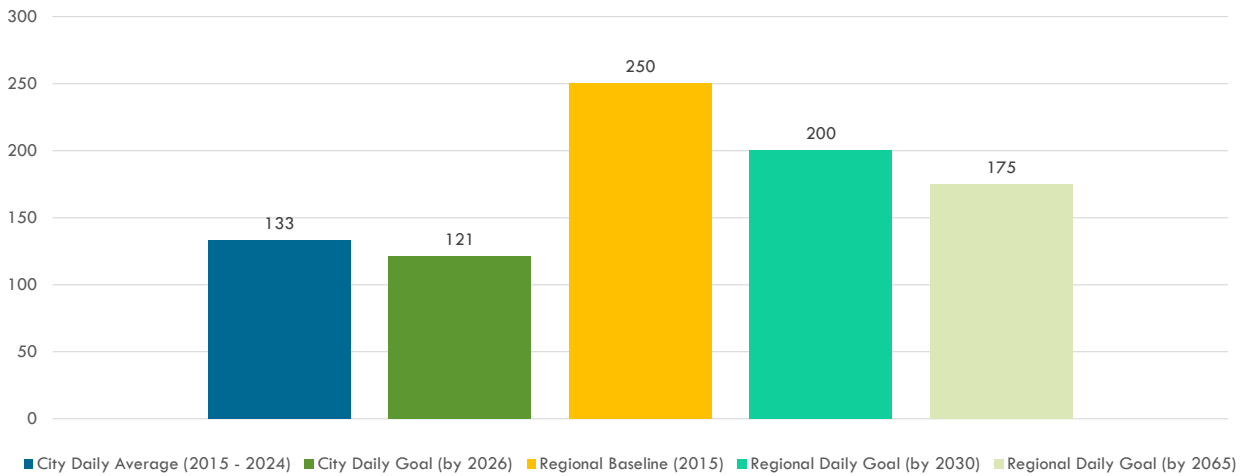
2.4 REGIONAL CONTEXT

Clearfield is located in the Weber River Basin, one of the watersheds in Utah. The Weber River Basin is one of the five main sub-basins that drain into the Great Salt Lake.

The Great Salt Lake contributes greatly to Utah's hydrologic cycle by providing a warm environment where water condenses into the lower atmosphere before being returned as snow in the Wasatch and Uinta Mountain ranges. Considering that our water sources rely on this "lake effect," it is vital to consider how to preserve these natural systems. While maintaining sufficient reservoir levels is critical, water stewardship includes the release of water into streams, rivers, and natural lakes to maintain our life-supporting ecosystem.

Clearfield is served by the Weber Basin Water Conservancy District (WBWCD). WBWCD is the regional supplier within the Ogden and Weber River drainages and provides culinary and secondary water to over 700,000 people in five counties (Box Elder, Davis, Morgan, Summit, and Weber). WBWCD delivers approximately 230,000 acre-feet of wholesale water each year. This translates to about 205 million gallons of water every day!

WBWCD operates seven large storage reservoirs, three hydro-power generation plants, twenty-one wells, four water treatment plants, and hundreds of miles of canals, tunnels, aqueducts, and pipelines. With each community working to conserve water as regional growth continues, WBWCD can work to meet regional conservation goals.



Clearfield City Average Daily Use and City and Regional Goals

2.5 REGIONAL COLLABORATION

In 2019, Utah established Regional Water Conservation Goals for the state's nine municipal and industrial (M & I) areas. A regional approach allows the goals to be tailored to the differing contexts of each region, including climate, elevation, and regional characteristics. Clearfield is part of the Weber River Region.

Average water use, in gallons per capita per day (gpcd), from the year 2015 serves as the baseline for the regional water conservation goals. In the Weber River Region this baseline is 250 gpcd. Compared to the other eight regions, Weber Basin is the third lowest for average water use, however it is higher than the statewide average of 240 gpcd. Other regions have a 2015 baseline ranging from 210 to 400 gpcd.

The Weber River Region has the following water conservation goals/targets:

by 2030 - reduction to 200 gpcd, a 20% reduction from the 2015 Baseline of 250

by 2040 – reduction to 184 gpcd, a 26% reduction from the 2015 Baseline of 250

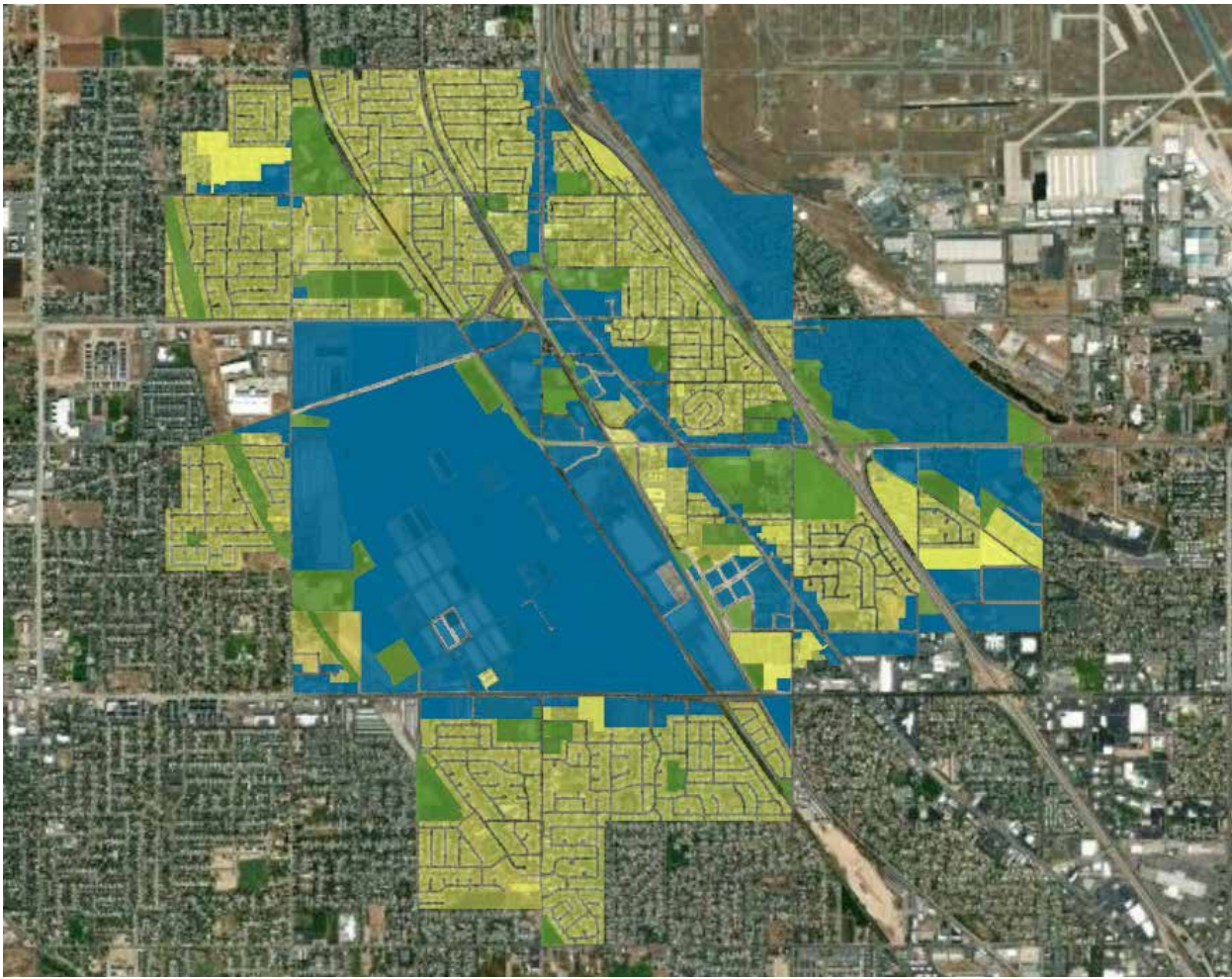
by 2065 – reduction to 175 gpcd, a 30% reduction from the 2015 Baseline of 250.

Regional goals for the Weber Basin Region are some of the most aggressive, and are higher than the statewide goals, which are targeting 16%, 22%, and 26% reductions, respectively.

Clearfield City is one of the lowest water consumers (gallons per capita per day) served by WBWCD. Clearfield City set a goal in 2021 to reduce water consumption by 10 to 15% in five years through various conservation efforts. The rolling five-year average for daily per capita water consumption has decreased from 142 gpcd (2017-2021) to 121 gpcd (2020-2024), reflecting a 15% reduction in just three years.

By comparison, other urban and suburban communities in the region have reported average daily water consumption levels of 198, 252, and 319 gpcd in their water conservation plans. Many communities in the region, however, rely on a combination of culinary water and secondary water and report on consumption of both. With secondary water historically unmetered, use levels may be higher than actual consumption as data has often been based on contract amounts rather than metered use.

CHAPTER THREE: VISION



New growth in Clearfield is focused in key centers (shown in blue), including Downtown Clearfield. Neighborhoods (shown in yellow) will remain relatively stable with minor infill development and new growth.

3.1 VISION ALIGNMENT

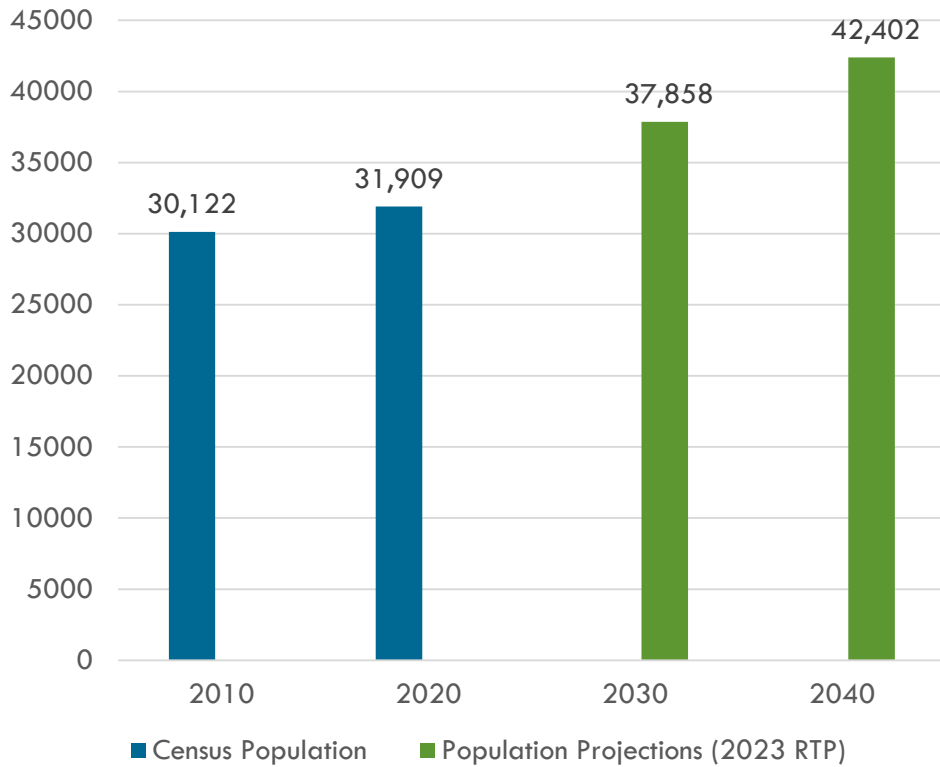
The water use and preservation element aligns with the overall vision of the General Plan, which guides decisions to support a high quality of life and efficient use of land and infrastructure for the community. The goals, objectives, policies, and strategies of the water element support the four vision initiatives for Clearfield City, which reflect the key areas and topics of focus for the General Plan. The majority of projected growth, and new water users, will be focused in the key centers as captured in the Vision Initiatives.

Initiative #1: Focused, Centered, and Balanced Growth

Initiative #2: Connected Community

Initiative #3: Community Wellbeing and Quality of Life

Initiative #4: Resilient City



3.2 PLANNING FOR THE FUTURE

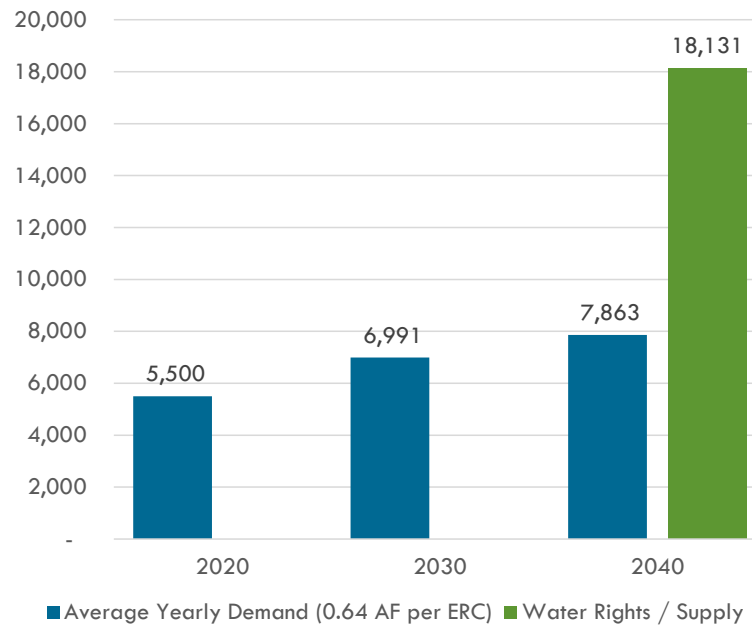
PROJECTED GROWTH

Based on Clearfield’s planned future land use and development patterns, the City is projected to **add 7,500 residents by the year 2040**. This growth to 42,500 people reflects the estimated “build out” scenario for water supply and infrastructure captured in the City’s Culinary Water Impact Fee Facilities Plan. Clearfield is planning for and constructing the infrastructure necessary for this projected growth. (*WFRF population projections; Clearfield 2023 Culinary Water IFFP*)

FUTURE LAND USE AND DEVELOPMENT PATTERNS

With growth focused in key centers, the majority of new housing is expected to be small lot single-family, attached single-family townhomes, multi-family dwellings, or mixed-use developments. This new growth is anticipated to have lower per capita water use than that of existing neighborhoods. Average household size may also decrease based on the size and style of housing units planned in Clearfield’s neighborhoods and mixed use centers. Clearfield’s residential zoning reflects this, with minimum lot size requirements of 9,000 sq. ft. or less.

While a small amount of agricultural land remains in Clearfield, preservation of large-scale productive agricultural use is not anticipated. However, some of these areas may develop under a conservation subdivision framework and retain small urban farming operations. Clearfield’s agricultural zoning provides the opportunity to integrate small-scale agricultural uses and animal rights in its residential neighborhoods, requiring minimum lots sizes of only one-third acre.



FUTURE WATER SUPPLY

Through Clearfield’s land use decisions to guide growth into centers, coupled with water conservation efforts, the following water budget supports the estimated growth to 42,500 people by 2040 with an additional 3,081 equivalent residential connections (ERCs).

Water Supply: (1,371 gpd per ERC) – 16,844,106 gpd [*excess capacity: 4,657,974 gpd*]

Water Rights: (0.64 acre-feet per ERC) - 7,863 acre-feet [*excess capacity: 10,268 acre-feet*]

Water Storage: 12,870,008 gallons [*excess capacity: 444,992 gallons*]

Clearfield City intends for most of its future water to be supplied through the purchase of water from the Weber Basin Water Conservancy District (WBWCD). Water needs beyond the existing contract, however, may likely be at a higher cost rate to support infrastructure costs for WBWCD water supplies. Water from WBWCD, coupled with water from the City’s wells during summer months and emergency situations, will be used for both indoor and outdoor water connections.

A city-wide secondary water system is not currently planned. The small portion of Clearfield connected to a secondary water supply, through the private irrigation companies, is expected to retain these connections; additional/new connections to these systems are not expected.

WATER-WISE DEVELOPMENT IN CLEARFIELD

All new development within Clearfield must comply with the City’s Water-Efficient Landscape Ordinance, implemented in 2022. Considering that over half of the water used by residents in Utah has typically been applied to outdoor landscapes, new development in Clearfield will strive to reduce that amount through the promotion of more water-efficient development patterns (smaller lot sizes, attached single-family and multi-family housing, and mixed-use centers) and the installation of resilient landscapes that promote decreased water needs.

The resulting development aims to provide decreased maintenance, increased curb appeal and accessibility, all while conserving water by reducing overall lawn area sizes and utilizing efficient water sense irrigation systems. Clearfield has a well maintained and operated water system and has been proactively implementing several conservation measures to reduce water usage in the community, including the repair and replacement of water infrastructure to support decreased water system losses and support capacity for future growth.

CITY ACTION HIGHLIGHT: UPDATED IRRIGATION SYSTEMS & WATERING PRACTICES

In 2021, Clearfield City installed the WeatherTrak Irrigation System, new master valves, and flow sensors for 98% of the city's irrigated sites. These approaches allow the City to take a more proactive approach to conserve water now and in the future. The Parks Department reduced water usage by over 30%. Collectively, these updates have led to an estimated reduction of 5% annually (equaling over 300 acre-feet of water).

At Barlow Park, Clearfield saved 7.7 million gallons of water due to new WeatherTrak system. The Parks and Recreation Department has a comprehensive plan in place to reduce and/or eliminate watering on City property while still preserving the sports fields and community spaces.



Image: Barlow Park Soccer Fields; Clearfield City

3.3 WATER SAVING SUCCESS STORIES

CITY ACTIONS

Clearfield City has implemented several initiatives to help conserve water. Actions include education campaigns, infrastructure updates, and revised irrigation and maintenance methods at city parks and property.

EDUCATION CAMPAIGNS

Clearfield City uses the city's website, social media, the monthly e-mail newsletter, and other communication channels to provide information and tips for conserving water and being water-wise.

COLLABORATION

During a recent water tank emergency, collaboration with Syracuse City, along with community conservation efforts, allowed Clearfield City time to make critical repairs and restore necessary equipment to maintain the water capacity of the City's water tanks.

INFRASTRUCTURE UPDATES

Clearfield City has been making necessary repairs to its water system to ensure its reliability, especially during peak usage periods.

WATER METER REPLACEMENTS

Clearfield City began replacing water meters in 2023. Most of the water meters in Clearfield were installed in the late 1990's and have an effective battery life of 10 to 15 years. As the water meter wears out it produces inaccurate readings, making it challenging/ to get an accurate account of total usage for that meter. The new meter system alerts the City when there is a constant flow of water, indicating a leak that may otherwise get overlooked. More accurate meters, coupled with the City's tiered water rates, help raise awareness on the amount of water being used for each connection.

COMMUNITY PARTICIPATION HIGHLIGHT: WATERWISE LANDSCAPES

Residents, businesses, and institutions have responded to the call for water conservation by updating their landscapes with more water-wise designs and materials.



Image: Multi-family Housing; Clearfield City



Image: Davis County Library; Clearfield City



Image: Legend Hills; Clearfield City

COMMUNITY PARTICIPATION

The Clearfield community has responded to the City's water conservation campaigns, including participation in rebate initiatives, landscaping changes, reduced watering, and responding to critical action/emergency water situations.

EMERGENCY CAMPAIGN RESPONSE

In July 2025, Clearfield City was faced with a critical electrical issue with the City's water tanks, leading to pumping system constraints. In addition to the City's usual communication platforms, Clearfield used the Davis County emergency alert notification program to request voluntary reductions in water usage, especially outdoors. Residents responded and their actions gave the city time to make critical repairs and avoid water shortages or pressure change concerns.

Clearfield residents are encouraged to sign up for the Everbridge emergency alert notification system used by Davis County:

<https://www.daviscountyutah.gov/emergency-management/emergency-alert-sign-up>

INCENTIVES / REBATES

Community members have participated in the various rebate incentive programs administered by Weber Basin Water Conservancy District. Participation numbers are for the years 2018 to 2025.

- Flip Your Strip – 41 Applicants; 19,802 square feet replaced
- Landscape Lawn Exchange – 20 Applicants; 42,741 square feet replaced
- Toilet Rebate – 18
- Smart Controllers for Irrigation – 252

PLANNING AND POLICY HIGHLIGHT: CLUSTERED DEVELOPMENT

Using various zoning tools, Clearfield City has provided a supportive framework for the planning and design of more conservation-oriented development patterns. Provisions for clustered development patterns lead to more water-efficient neighborhoods compared to typical single-family homes, with reduced individual lawns in exchange for shared open space areas.



Image: Wilcox Farms Subdivision, Clearfield City

PLANNING AND POLICY

Clearfield City has been facilitating water conservation efforts through its planning and policy decisions over the past decade or more, including directing growth to key centers, updating ordinances, short- and long-range planning, and revising water rate structures.

WATER EFFICIENT LANDSCAPE ORDINANCE

In 2022, Clearfield City adopted updates to its landscape ordinance with a focus on implementing water efficiency standards.

CLEARFIELD STATION AREA PLANNING

Clearfield Station opened in 2008, and Clearfield City began a collaboration with UTA to facilitate transit-oriented development on 70 acres owned by UTA adjacent to the station. A master development plan was approved in 2014, leading to construction of the Clearfield Station Apartments (216 units). Development stalled, leading to a joint effort with UTA to develop a Station Area Plan in 2019 (Clearfield Connected) for the remaining 60 acres owned by UTA. In 2024, Clearfield updated the Station Area Plan to meet state code requirements, expanding the scope to include a half-mile radius from the station.

DOWNTOWN CLEARFIELD

Past and current city councils have worked hard to revitalize Downtown Clearfield by bringing more businesses, public parks, and housing opportunities. This has been a 20-year journey, and the City has begun to see the effects through key redevelopment projects over the past several years with more in the pipeline. With a focus on higher intensity uses, Downtown Clearfield will absorb much of the city's growth in a more waterwise development pattern.

WATER RATES

Clearfield City is keeping water rates consistent with the conservation rates adopted by city council in 2022. Conservation rates help preserve the community's water resources by encouraging behaviors that reduce water waste.

Clearfield City has been using tiered water rates since 2007, with the most recent update in 2024.

CHAPTER FOUR: POLICY GUIDE

POLICY GUIDE TERMINOLOGY

GOALS

- Goals reflect an aspirational direction or outcome desired by the community. Goals are typically achieved through incremental and long-term implementation.

OBJECTIVES

- Objectives focus on the outcomes the city is trying to achieve, which are tied to the overall goal(s) and can include specific metrics/indicators toward accomplishment or progress.

POLICIES & STRATEGIES

- Policies and strategies reflect a framework of potential options for helping Clearfield meet the objectives and overall goals of the General Plan.
- Policies are more specific statements reflecting a preferred action or perspective. They relate back to the overarching goal/aspirational statement. Policies provide guidance for making decisions and for compliance with the General Plan vision.
- Strategies can function as catalysts for achieving the goals. Strategies are a launching point for implementing new ordinances, new policies, or for making changes to existing ordinances, programs, capital improvements/investments, or other city policies and implementation mechanisms. Strategies describe the “how” and are more action-oriented than goal-oriented. They describe ways to make progress toward the goals and objectives. Many strategies can help to achieve more than one goal or individual objective.

4.1 INTRODUCTION

The Policy Guide, along with the City’s Vision Initiatives, provides Clearfield with a strategic water-centric framework for making decisions to lead the city to a successful future.

The Policy Guide is a tool to help Clearfield achieve the City’s water conservation goals of reducing water consumption by 10% or more and support regional water conservation goals of reducing water consumption by 20% before the year 2030.

The Policy Guide serves as a resource for the City to use when evaluating actions and the implementation of ideas to achieve the vision of the General Plan. For example, the General Plan is used as the key resource and reference when deciding how to respond to requests for changes to zoning or for implementing new development ideas. The City can evaluate whether the requests are consistent with the objectives of the General Plan and the Water Use and Preservation element. The element will also ensure consistency between the City’s departments in water planning, education efforts, and communication.

It is possible all identified strategies may not be used, accomplished, or implemented. **Impacts such as costs, timing, or changing priorities may alter or nullify the feasibility of a strategy.** Additionally, new strategies may be identified in the future.

Objectives, policies, and strategies will address one or more of the following:

(Existing Development Reductions; EDR) - reducing water demand and per capita water use for existing development.

(Future Development Reductions; FDR) - reducing water demand and per capita water use for future development.

(Clearfield City Practices; CCP) – water-wise practices by Clearfield City.

RELEVANT / RELATED PLANNING EFFORTS

The City has been working to direct growth toward existing and emerging centers, such as Downtown Clearfield and the Clearfield Station area. This centered and balanced growth supports stewardship through the efficient use of land and water resources.



4.2 OVERALL GOAL & OBJECTIVES

WATER USE AND PRESERVATION - OVERALL GOAL

Clearfield strives to continue facilitating growth and development patterns that support responsible use of the City's water supply, ensuring the ability to meet current and future demands and respond to water supply issues.

WATER USE AND PRESERVATION - OBJECTIVES

Eight objectives reflect key targets Clearfield would like to achieve to meet the overall goal for Water Use and Preservation.

1. Promote and support development patterns with lower water usage habits and where infrastructure already exists. (FDR)
2. Collaborate with regional partners to protect the health of the Great Salt Lake, the Wasatch Mountain watersheds, waterways, and other water sources. (EDR, FDR, CC)
3. Foster the use of water efficient building standards, plumbing fixtures, and site development techniques. (EDR, FDR, CC)
4. Uphold water-efficient landscaping techniques and maintenance practices appropriate to our climate. (EDR, FDR, CC)
5. Promote water conservation while still maintaining community aesthetics and character. (EDR, FDR, CC)
6. Aspire to improve the level of public awareness regarding water conservation through positive messaging and engaging the community in key water challenges. (EDR, FDR, CC)
7. Ensure water resources are used responsibly and efficiently at City facilities. (CC)
8. Lead by example through the pursuit of funding and outside resources to support innovative methods and pilot demonstration projects. (EDR, FDR, CC)



4.3 POLICIES & STRATEGIES

The following policies and strategies reflect a framework of potential options for helping Clearfield meet the eight objectives and overall goal for Water Use and Preservation.

EDUCATION AND INCENTIVES [EDR, FDR, CC]

- WU-1: Continue to use city communications and community education programs to encourage water-wise practices and collaborate with regional partners to host events in Clearfield.
- WU-2: Establish campaigns to target Clearfield’s older homes/neighborhoods, which are more likely to have older, less water-efficient appliances and fixtures. Promote participation by having a citywide “contest” and/or providing incentives.
- WU-3: Coordinate with the Parks and Recreation Commission to evaluate establishing an award category to recognize well-landscaped, water saving yards for a range of use types.
- WU-4: Consider establishing volunteer Water Conservation Ambassadors as a community-led effort to help educate residents and businesses regarding water-efficient landscapes and irrigation practices.

REGULATIONS / STANDARDS [EDR, FDR, CC]

- WU-5: Review allowed land uses in the zoning code and consider minimizing and/or establishing conditional use requirements for uses that consume large amounts of water.
- WU-6: Continue to evaluate and update, as relevant, zoning regulations and development standards that reduce outdoor water use and stormwater runoff.
- WU-7: Maintain minimum requirements for living plant cover and trees to support groundwater recharge, help mitigate urban heat island impacts, and minimize soil erosion.
- WU-8: Evaluate the city’s standards regarding the use of green roofs, containers, and other alternatives to meet landscaping requirements outside of the Form-Based Code districts.

WATER USE AND PRESERVATION - POLICIES & STRATEGIES (CONT.)

MEASUREMENT / MONITORING [EDR, FDR, CC]

- WU-9: Consider establishing a water conservation dashboard to communicate the effectiveness of various strategies and policies implemented by Clearfield.
- WU-10: Consider a regular evaluation of the City's water rate structure to evaluate if the rate tiers are aligned with land use and development patterns.
- WU-11: Consider establishing drought metering rates to use during times of extreme drought.
- WU-12: Pilot an indoor/outdoor meter program and consider requiring outdoor meters for all new development and major remodels.
- WU-13: Coordinate/collaborate with secondary water providers on their progress to install water meters on secondary water connections; integrate this water use data with the city's culinary water data to provide a comprehensive understanding of indoor and outdoor water use in Clearfield.

DEMONSTRATION / COLLABORATION / INNOVATION [EDR, FDR, CC]

- WU-14: Coordinate with Davis County Health on graywater/water recycling systems and consider a pilot demonstration project at a city facility.
- WU-15: Continue to explore funding through grants and other programs to supplement rebates, support innovative efforts, and conduct pilot projects.
- WU-16: Encourage rainwater harvesting and consider a pilot demonstration project at a city facility. Coordinate with the city's stormwater management efforts.
- WU-17: Prioritize the maintenance, watering, and planting of street trees to retain community character and help mitigate urban heat island impacts.
- WU-18: Communicate the success of water conservation at city-owned/managed facilities and places.

WATER INFRASTRUCTURE INVESTMENTS [EDR, FDR, CC]

- WU-19: Continue to support the meter and water pipeline replacement program to keep the City's water infrastructure in good condition and minimize system inefficiencies.
- WU-20: Evaluate the potential for secondary water connections or graywater systems at city-owned/managed facilities.

4.4 IMPLEMENTATION

THE IMPLEMENTATION MATRIX WILL BE EVALUATED REGULARLY TO ESTABLISH THE CITY'S PRIORITIES AND EFFORTS FOR THIS ELEMENT.

	Ongoing Effort	Short-Term: 1 to 5 years	Long-Term: 5 to 10+ years
Continue to use city communications and community education programs to encourage water-wise practices and collaborate with regional partners to host events in Clearfield.			
Establish campaigns to target Clearfield's older homes/neighborhoods, which are more likely to have older, less water-efficient appliances and fixtures. Promote participation by having a citywide "contest" and/or providing incentives.			
Coordinate with the Parks and Recreation Commission to evaluate establishing an award category to recognize well-landscaped, water saving yards for a range of use types.			
Consider establishing volunteer Water Conservation Ambassadors as a community-led effort to help educate residents and businesses regarding water-efficient landscapes and irrigation practices.			
Review allowed land uses in the zoning code and consider minimizing and/or establishing conditional use requirements for uses that consume large amounts of water.			
Continue to evaluate and update, as relevant, zoning regulations and development standards that reduce outdoor water use and stormwater runoff.			
Maintain minimum requirements for living plant cover and trees to support groundwater recharge, help mitigate urban heat island impacts, and minimize soil erosion.			
Evaluate the city's standards regarding the use of green roofs, containers, and other alternatives to meet landscaping requirements outside of the Form-Based Code districts.			
Consider establishing a water conservation dashboard to communicate the effectiveness of various strategies and policies implemented by Clearfield.			
Consider a regular evaluation of the City's water rate structure to evaluate if the rate tiers are aligned with land use and development patterns.			
Consider establishing drought metering rates to use during times of extreme drought.			
Pilot an indoor/outdoor meter program and consider requiring outdoor meters for all new development and major remodels.			
Coordinate/collaborate with secondary water providers on their progress to install water meters on secondary water connections; integrate this water use data with the city's culinary water data to provide a comprehensive understanding of indoor and outdoor water use in Clearfield.			
Coordinate with Davis County Health on graywater/water recycling systems and consider a pilot demonstration project at a city facility.			
Continue to explore funding through grants and other programs to supplement rebates, support innovative efforts, and conduct pilot projects.			
Encourage rainwater harvesting and consider a pilot demonstration project at a city facility. Coordinate with the city's stormwater management efforts.			
Prioritize the maintenance, watering, and planting of street trees to retain community character and help mitigate urban heat island impacts.			
Communicate the success of water conservation at city-owned/managed facilities and places.			
Continue to support the meter and water pipeline replacement program to keep the City's water infrastructure in good condition and minimize system inefficiencies.			
Evaluate the potential for secondary water connections or graywater systems at city-owned/managed facilities.			



CLEARFIELD CITY

WATER USE & PRESERVATION PLAN

2025

DRAFT: NOVEMBER 2025

TO: Mayor Shepherd and City Council Members

FROM: Tyson Stoddard, Planner

MEETING DATE: November 25, 2025

SUBJECT: Public Hearing, Discussion, and Possible Action on ZTA 2025-1001, a zoning text amendment request by Clearfield City to amend Title 11 of the Clearfield City Code to permit Detached Accessory Dwelling Units (DADUs) in select zones, and to adopt DADU development standards. (Legislative Matter).

RECOMMENDED ACTION

The Planning Commission forwarded a recommendation of APPROVAL to the City Council of ZTA 2025-1001, a zoning text amendment request by Clearfield City to amend Title 11 of the Clearfield City Code to permit Detached Accessory Dwelling Units (DADUs) in select zones, and to adopt DADU development standards. The vote was six (5) for approval and one (1) against.

The staff report included two options for the amendment. The options were Option A (no minimum lot size requirements) and Option B (6,000 square foot minimum for IADUs and 8,000 square foot minimum for DADUs). The Planning Commission's recommendation was for Option A, favoring policy that had the potential to provide greater supply, allow more opportunity to homeowners, and reduce regulations and barriers for ADUs.

DESCRIPTION / BACKGROUND

In September of 2021, Clearfield City adopted an Internal Accessory Dwelling Unit (IADU) ordinance. This ordinance was specifically for accessory units that would be within the structure of single-family dwellings, on lot sizes of at least 6,000 square feet.

One of the strategies identified in the City's Moderate Income Housing Plan (MIHP) is to allow for and reduce regulations related to internal or detached accessory dwelling units in residential zones. With that strategy in mind, the City Council discussed Detached Accessory Dwelling Units (DADUs) during a work session in September of 2024 and reviewed sample ordinances from other cities such as Syracuse, Layton, and Murray. The direction provided by the Council was for staff to prepare a draft ordinance for detached accessory units that could be discussed at a later date.

After preparing a draft ordinance for discussion, the topic was discussed by the City Council in a work session on September 2, 2025, and with the Planning Commission in a meeting on September 3, 2025. The comments and discussion from each of the public bodies provided differing perspectives and preferences. For example, the City Council indicated a preference that the minimum lot size required for a DADU be 8,000 square feet. The Planning Commission on the other hand, voiced a preference for allowing DADUs regardless of lot size, as long as the setback and development standards of the ordinance were fulfilled. Given the different perspectives provided, staff has crafted



two versions of the proposed ordinance for consideration. The two options are included as attachments to this report and referred to as “Option A” and “Option B”.

ANALYSIS

With the high demand and low supply of housing witnessed in the region over the past few years, many cities have adopted ordinances allowing accessory dwelling units (ADUs). This type of housing can provide more affordable housing options and may appeal to residents who don’t need as much space. It can also provide flexibility to homeowners who may gain income through rent while offering housing.

State Regulations

Similar to how the State required cities of a certain size to allow IADUs, indications are that in the upcoming legislative session, the State will also require the allowance of DADUs. Based on communication with the Utah League of Cities and Towns (ULCT), staff anticipates that both options of the proposed ordinance will comply with any new State requirements. However, depending on what comes out of the legislative session, the ordinance may be amended as necessary.

Draft Ordinance

Staff has taken the existing IADU Ordinance as found in Title 11, Chapter 19 of Clearfield City Code and is proposing amendments to allow DADUs, with development standards related to size, height, and setback distances. These standards are provided in the attachments to this report and below is a summary of the two options is listed below.

- “Option A” has no minimum lot size for IADUs or DADUs. They would be permitted on any lot zoned as single-family or agricultural, as long as setbacks and development standards of the ordinance can be met. The following are reflective of the values prioritized with this policy option.
 - Housing Affordability & Supply: Increasing the overall housing supply and creating more affordable options for renters, which can help address housing shortages.
 - Inclusivity: Allows more homeowners to consider an ADU, providing wealth-building opportunities and a potential income stream to a wider range of residents.
 - Flexibility: Provides ability for homeowners to adapt their properties to changing needs, such as accommodating aging family members, or young adults, regardless lot size.
 - Reduced Regulation: Signals a preference for reducing bureaucratic hurdles related to ADUs.
- “Option B” maintains the existing 6,000 square foot minimum lot size for IADUs and establishes an 8,000 square foot minimum lot size for DADUs. All other development standards and proposed amendments are the same as “Option A”. The following are reflective of the values prioritized with this policy option.

- Preservation of Neighborhood Character: Seeks to maintain the existing low-density, single-family aesthetic of a neighborhood and avoiding changes in the physical character of neighborhoods with smaller lot sizes.
- Minimizing Congestion and Infrastructure Impact: Reflects concerns about potential impacts of increased density, such as more on-street parking demand and greater strain on public services and infrastructure.
- Homeowner Concerns: Shows responsiveness to existing residents who may have concerns or did not anticipate an increase in dwellings within their neighborhood.

General Plan Analysis

In reviewing any ordinance amendment or rezone, it is important to consult with the current General Plan to review the relevant topics or elements of the General Plan, along with the community goals, objectives, and strategies to help inform land use decisions. There are community vision objectives associated with “Housing and Neighborhoods” that can be evaluated in relation to the request, which are listed below.

Housing and Neighborhoods	
Clearfield aspires to have a mix of housing choices and ownership opportunities available in walkable neighborhoods well-served by open space and recreational amenities and provide easy access to retail, transit options, services, and employment opportunities via multiple modes of transportation.	
Objectives & Strategies	Staff Analysis
<u>Objective</u> : Provide a range of housing types and neighborhoods to the Clearfield community. <u>Relevant Strategy HN-8</u> : Evaluate and identify neighborhoods where detached ADUs may best be integrated as a strategy to expand affordable housing options.	The proposed amendment would allow for DADUs, a more affordable housing type that is not currently permitted in the city. The amendment process provides the Planning Commission and City Council the opportunity to identify where DADUs may be best integrated in the city.
<u>Objective</u> : Support the integration of complementary housing types within neighborhoods, consistent with existing development patterns, to encourage attainable and affordable neighborhoods that meet the needs of different generations and socioeconomic groups while preserving neighborhood character. <u>Relevant Strategy HN-8</u> : Evaluate and identify neighborhoods where detached ADUs may best be integrated as a strategy to expand affordable housing options.	The development standards of the proposed amendment are intended to support the successful integration of a new housing type into existing neighborhoods. ADUs provide attainable and affordable housing options that can help meet the needs of people at various stages of life. Standards related to lot area, dwelling size, height, and setbacks are provided to help preserve neighborhood character.

Zoning Text Amendment Analysis

Clearfield Land Use Ordinance Section 11-6-3 establishes the following findings the Planning Commission shall make to approve Zoning Ordinance Text Amendments. The findings and staff's evaluation are outlined below.

Review Consideration	Staff Analysis
The proposed amendment is in accordance with the General Plan and Map; or	The General Plan encourages continual evaluation and modifications to adopted ordinances. The proposed amendment is supported by the "Housing and Neighborhoods" section of the General Plan, as well as the strategy to evaluate neighborhoods where detached ADUs may be best integrated to expand affordability options.
Changed conditions make the proposed amendment necessary to fulfill the purposes of this Title.	There continues to be a significant inventory shortage of affordable housing in the region. Allowing for DADUs will provide additional housing options for lower income individuals and households.

PUBLIC COMMENT

Two residents came to the Public Hearing to make comment. Both expressed a preference for allowing DADUs and indicated a preference for not having a minimum lot size requirement. One spoke in favor of allowing for a type of permeable parking, termed ecoparking, which would allow for a hard surface in the form of a grid with vegetation growing in the soil sections.

CORRESPONDING POLICY PRIORITIES

- Improving Clearfield's Image, Livability, and Economy

DADUs will enhance Clearfield's image by allowing a housing type for which there is increasing demand. The policy will contribute to Clearfield's livability and economy by creating more housing options for families, allowing greater investment into current properties, and providing additional income streams to property owners.

HEDGEHOG SCORE

Not considered

FISCAL IMPACT

Fiscal impacts are considered minimal. While there is increasing demand, there is not a significant quantity of DADUs being permitted and built in the region.



ALTERNATIVES

Following careful consideration of the information included in this report, the City Council may choose one of the following:

1. Approve the zoning text amendment request by Clearfield City to amend Title 11 of the Clearfield City Code to permit Detached Accessory Dwelling Units (DADUs) in select zones, and to adopt DADU development standards.
2. Deny the zoning text amendment request by Clearfield City to amend Title 11 of the Clearfield City Code to permit Detached Accessory Dwelling Units (DADUs) in select zones, and to adopt DADU development standards.
3. Table the zoning text amendment request to a specific date and request additional information for consideration.
4. The City Council may also choose to approve the zoning text amendment request with the lot minimum requirements described Option B from the staff report, or some other variation of the proposed amendment.

SCHEDULE / TIME CONSTRAINTS

There are no time constraints with this request.

LIST OF ATTACHMENTS

- Proposed ADU Amendments Option A
- Proposed ADU Amendments Option B

DRAFT ADU ORDINANCE AMENDMENTS

OPTION A (no minimum lot size)

CHAPTER 19

~~INTERNAL~~ ACCESSORY DWELLING UNITS

11-19-1: PURPOSE AND INTENT:

The ~~Internal~~ Accessory Dwelling Unit (~~I~~ADU) ordinance is established to provide areas for the encouragement and promotion of an environment for family life by providing for the establishment of an accessory unit in conjunction with single-family detached dwellings on individual lots. This ordinance is hereby established to promote the use of ADUsaccessory units; to provide flexibility for the changes in household size associated with life cycle; to offer financial security for home buyers; and to offer security against problems associated with frailty in old age. These provisions are also intended to provide for affordable housing with reasonable limitations to minimize the impact on neighboring properties and neighborhoods, and to promote the health, safety, and welfare of the property owners and residents of ADUsaccessory dwelling units. (Ord. 2021-14, 9-28-2021)

11-19-2: DEFINITIONS ~~S OF ACCESSORY DWELLING UNIT:~~

ACCESSORY DWELLING UNIT (ADU): A subordinate dwelling, which has its own kitchen, living/sleeping area, and full bathroom, including, sink, toilet shower/bath which ~~is may be~~ within or attached to a single-family residential building, or detached from a single-family residential building.

INTERNAL ACCESSORY DWELLING UNIT (IADU): An accessory dwelling within or attached to a single-family residential building.

DETACHED ACCESSORY DWELLING UNIT (DADU): An accessory dwelling that is on the same lot as a single-family building, but is a separate structure from the single-family building.

PRIMARY DWELLING: The main or principal dwelling on a lot used to accommodate the primary use to which the premises is devoted. In the context of this chapter, the primary dwelling is a single-family residential building. (Ord. 2021-14, 9-28-2021)

11-19-3: OWNER OCCUPIED:

~~For the purpose of this section, the term “owner occupied” shall be defined as fulltime residency within the home by the bona fide property owner(s) as shown on the Davis~~

~~County tax assessment rolls. No ADUaccessory dwelling units shall be created, established, or occupied in a single-family dwelling unless the bona fide property owner(s) as shown on the Davis County tax assessment rolls resides fulltimeowner of the property lives on the property within either the primaryprincipal dwelling or accessory dwelling unitADU. (Ord. 2021-14, 9-28-2021)~~

11-19-4: DWELLING UNIT OCCUPANCY:

The occupants of an ~~ADUaccessory dwelling unit~~ shall be limited to a single family as defined in Section 11-3-3 of Clearfield City Code.~~by one of the following family categories:~~

- ~~—A. One person living alone; or~~
- ~~—B. Two (2) related or unrelated adults and their children.~~
- ~~—C. Any of the above categories plus a temporary guest. A “temporary guest” is defined as a person who stays with a family for a period of less than thirty (30) days within any rolling one-year period and does not utilize the dwelling as a legal address for any purpose. (Ord. 2021-14, 9-28-2021)~~

11-19-5: ZONES:

An ~~ADUaccessory dwelling~~ which meets ordinance requirements and development standards may be allowed ~~in a single-family dwelling unit~~ within all single-family and agricultural zones.~~on lots greater than 6,000 square feet. No accessory dwelling unit may be allowed in any multi-family dwelling or zone. (Ord. 2021-14, 9-28-2021)~~

11-19-6: NUMBER OF ACCESSORY DWELLING UNITS:

A maximum of one ~~ADUaccessory dwelling unit~~ shall be allowed ~~in each owner-occupied single-family dwelling per lot~~. (Ord. 2021-14, 9-28-2021)

11-19-7: ADDRESS:

The ~~primaryprincipal dwelling-unit~~ and the ~~ADUaccessory dwelling unit~~ shall have the same address number but shall refer to the ~~ADUaccessory dwelling unit~~ as “Unit B.” Addresses must be located in a visible location on the street frontage side of the home. (Ord. 2021-14, 9-28-2021)

11-19-8: SEPARATE LIVING AREAS:

An ~~ADUaccessory dwelling unit~~ must provide a kitchen, living areas~~for eating~~, sleeping area, and a full bathroom, including, sink, toilet shower/bath, separate from the ~~primaryprincipal dwelling-unit~~. (Ord. 2021-14, 9-28-2021)

11-19-9: FIRE, BUILDING, AND HEALTH CODES:

An IADU shall comply with all building construction and fire codes in effect at the time the IADU is constructed, created or subsequently remodeled, including the obtaining of required building and other permits. (Ord. 2021-14, 9-28-2021)

11-19-10: UTILITY METERS:

A single-family dwelling with an ADUaccessory dwelling shall have only one (1) meter for each water, gas, and electricity utility service, and each meter shall be in the property owner's name. Installing separate utility meters for the ADU is prohibited. (Ord. 2021-14, 9-28-2021)

11-19-11: NOT INTENDED FOR SALE:

ADUsAccessory dwelling units shall not be sold separately nor subdivided from the primary dwelling unit or lot. (Ord. 2021-14, 9-28-2021)

11-19-12: ACCESSORY DWELLING UNIT REGISTRATION / BUSINESS LICENSE:

Any person owning an existing ADUaccessory dwelling unit that has not previously been permitted by the city, or any person constructing or causing the construction of a residence that has an ADUaccessory dwelling unit, or any person remodeling or causing the remodeling of a residence for an ADUaccessory dwelling unit, shall register the ADUaccessory dwelling unit with the Community Development Department. If the ADUaccessory dwelling unit is a rental unit a business license is also required. This shall be in addition to a building permit for the work to be performed. In order to meet the requirements of the registration, the applicant shall:

A. Submit a fee as identified in the Consolidated Fee Schedule with a completed registration form/application including a site plan that shows property lines and dimensions, the location of existing buildings and building entrances, dimensions from buildings or additions to property lines, the location of parking stalls, and utility meter.

B. Include detailed floor plans with labels on rooms indicating uses or proposed uses.

C. Pay building permit fees, if applicable, for the construction and/or remodeling of an existing dwelling, in accordance with the established fees and charges.

D. Make all corrections identified as necessary to comply with building code requirements, as identified by the chief building official or his designee and provide photos of the life safety items required by building code, including carbon monoxide detectors, smoke detectors, and earthquake strapping on water heaters.

~~E. Failure To Complete and Obtain a Land Use Permit: If the property owner does not obtain a land use permit as outlined this chapter, the IADU shall not be considered legal or approved. Failure to obtain a land use permit for an existing dwelling unit within~~

~~two (2) years of this section may result in a citation for a code violation as governed by Title 1-16. "Code Enforcement," of this Code.~~

FE. Failure to complete registration of IADU: If the property owner does not complete the registration as outlined above, the ~~ADU~~accessory dwelling unit shall not be considered legal or approved. Failure to complete the registration of an existing ~~ADU~~accessory dwelling unit may result in a fine, which may result in a lien on the property. After the fine is assessed, the building official or ~~his~~ designee shall determine an appropriate deadline for compliance. An additional fine may be assessed for each deadline that is not met. (Ord. 2021-14, 9-28-2021)

11-19-13: HOME OCCUPATION BUSINESSES:

Home occupation businesses which may be approved in an ~~ADU~~accessory dwelling unit shall be restricted to a home office use which creates no customer traffic. No home occupation business shall be established within an ~~ADU~~accessory dwelling unit without the express written permission of the property owner, and approval from the City Business license official. (Ord. 2021-14, 9-28-2021)

11-19-14: DEVELOPMENT STANDARDS:

Internal Accessory Dwelling Units (IADU's):

~~__A. Size: The total area of the IADU shall be fifty percent (50%) or less of the total square footage of the primary residence and be located within the footprint of the home.~~

BA. Appearance: The architectural design, color pallet, and materials for an IADU shall be similar to the primary dwelling unit. The use of portable storage containers in the creation or construction of IADU's is prohibited.

GB. Location: IADUs shall meet the same setbacks as required for the primary residence in the zone.

~~— 1. IADUs and the primary dwelling must be on the same parcel and may not be subdivided.~~

~~1.2. IADUs~~Accessory dwelling units may be allowed as long as the zoning requirements for properties in a single-family neighborhood are met. The IADU shall not be within the building front, rear, or side yard setbacks for the zoning district in which the dwelling lot is located. In addition, the following standards apply:

~~2.3. IADUs~~Attached accessory dwelling units are allowed:

a. Over an attached garage, provided the accessory unit does not otherwise disrupt required covered parking.

b. Inside the primary residential dwelling through an internal conversion of the housing unit as an addition or in the basement.

c. By an addition to the house, containing an internal connection between dwelling units provided that the addition will not alter the single-family character of the building.

~~DC.~~ Building Entrances: An ~~IDAU~~~~accessory dwelling unit~~ shall have a separate entrance located on any side or rear of the single-family home or at the front of the home if it is below grade and maintains the characteristics of a single-family home. The purpose of this requirement is to preserve the single-family residential appearance of the building.

~~E. Parking: A single-family dwelling with an accessory dwelling unit shall provide at least one (1) additional off-street parking space for the IADU. In no case shall the number of off-street parking spaces be less than the number of vehicles being maintained on the premises. This shall include covered parking, garages and tandem parking in driveways. Tandem parking within a driveway is allowed to meet the parking requirement. No parking spaces may be located within the front or side yard setbacks adjacent to a street, except for within an approved driveway. At a minimum, all parking areas and driveways shall be paved with concrete, asphalt, masonry, or concrete pavers. Permitted accessory parking standards must meet minimum parking requirements. No accessory dwelling may be allowed on any lot that cannot satisfy the parking requirements. (Ord. 2021-14, 9-28-2021)~~

Detached Accessory Dwelling Units (DADU's):

A. Appearance: The architectural design, color pallet, and materials for a DADU shall be similar to the primary dwelling unit. The use of portable storage containers in the creation or construction of DADU's is prohibited.

B. Location: DADU's shall be located in the rear yard of the primary dwelling.

C. Height: DADU's shall be single story only and not include any livable square footage above or below the ground story level and are subject to the following total height restrictions.

1. Flat roof types are limited to a maximum height of twelve feet (12')

2. Pitched roof types are limited to a maximum height of eighteen feet (18')

3. DADU's shall not exceed the height of the primary dwelling

D. Height Exception: DADU's built above a detached garage are limited to a maximum height of twenty-five feet (25') or the height of the primary dwelling, whichever is less.

A. Setbacks: DADU's shall maintain the following setbacks.

1. Rear: 10 feet if single-story and 20 feet if DADU is built above a detached garage
2. Side: 10 feet
3. Corner Side: 20 feet on the side adjacent to a street
4. Distance from Primary Dwelling: 10 feet

B. Size: DADU's shall comply with the following size and total floor area requirements.

1. Building footprint not to exceed 50% of the footprint of the primary dwelling
2. Minimum: Total floor area to be no less than 200 square feet
3. Maximum: Total floor area not to exceed 1000 square feet

. Lot Coverage: DADU's shall comply with the following lot coverage requirements. Coverage calculation is for all buildings and structures, both main and accessory, and shall not exceed the listed percentages based on lot size.

1. Lot Size of 43,560 square feet and larger: 20%
2. Lot Size of 43,559 to 15,000 square feet: 30%
3. Lot Size of 14,999 square feet and below: 40%

11-19-15: PARKING:

A single-family dwelling with an ADU shall provide at least one (1) additional off-street parking space for the ADU, above the minimum spaces required for a single-family dwelling. The additional space may include the use of covered parking, a garage, or an approved driveway. Gravel or crushed rock accessory parking areas cannot be used to meet the parking requirement. (Ord. 2021-14, 9-28-2021)

DRAFT ADU ORDINANCE AMENDMENTS

OPTION B (8,000 sf minimum lot size)

CHAPTER 19

~~INTERNAL~~ ACCESSORY DWELLING UNITS

11-19-1: PURPOSE AND INTENT:

The ~~Internal~~ Accessory Dwelling Unit (~~I~~ADU) ordinance is established to provide areas for the encouragement and promotion of an environment for family life by providing for the establishment of an accessory unit in conjunction with single-family detached dwellings on individual lots. This ordinance is hereby established to promote the use of ADUsaccessory units; to provide flexibility for the changes in household size associated with life cycle; to offer financial security for home buyers; and to offer security against problems associated with frailty in old age. These provisions are also intended to provide for affordable housing with reasonable limitations to minimize the impact on neighboring properties and neighborhoods, and to promote the health, safety, and welfare of the property owners and residents of ADUsaccessory dwelling units. (Ord. 2021-14, 9-28-2021)

11-19-2: DEFINITIONS ~~S OF ACCESSORY DWELLING UNIT~~:

ACCESSORY DWELLING UNIT (ADU): A subordinate dwelling, which has its own kitchen, living/sleeping area, and full bathroom, including, sink, toilet shower/bath which ~~is may be~~ within or attached to a single-family residential building, or detached from a single-family residential building.

INTERNAL ACCESSORY DWELLING UNIT (IADU): An accessory dwelling within or attached to a single-family residential building.

DETACHED ACCESSORY DWELLING UNIT (DADU): An accessory dwelling that is on the same lot as a single-family building, but is a separate structure from the single-family building.

PRIMARY DWELLING: The main or principal dwelling on a lot used to accommodate the primary use to which the premises is devoted. In the context of this chapter, the primary dwelling is a single-family residential building. (Ord. 2021-14, 9-28-2021)

11-19-3: OWNER OCCUPIED:

~~For the purpose of this section, the term “owner occupied” shall be defined as fulltime residency within the home by the bona fide property owner(s) as shown on the Davis~~

~~County tax assessment rolls. No ADUaccessory dwelling units shall be created, established, or occupied in a single-family dwelling unless the bona fide property owner(s) as shown on the Davis County tax assessment rolls resides fulltimeowner of the property lives on the property within either the primaryprincipal dwelling or accessory dwelling unitADU. (Ord. 2021-14, 9-28-2021)~~

11-19-4: DWELLING UNIT OCCUPANCY:

The occupants of an ~~ADUaccessory dwelling unit~~ shall be limited to a single family as defined in Section 11-3-3 of Clearfield City Code.~~by one of the following family categories:~~

- ~~—A. One person living alone; or~~
- ~~—B. Two (2) related or unrelated adults and their children.~~
- ~~—C. Any of the above categories plus a temporary guest. A “temporary guest” is defined as a person who stays with a family for a period of less than thirty (30) days within any rolling one-year period and does not utilize the dwelling as a legal address for any purpose. (Ord. 2021-14, 9-28-2021)~~

11-19-5: ZONES AND LOT SIZE REQUIREMENTS:

An ~~ADUaccessory dwelling~~ which meets ordinance requirements and development standards may be allowed ~~in a single-family dwelling unit~~ within all single-family and agricultural zones. ~~on lots greater than 6,000 square feet. No accessory dwelling unit may be allowed in any multi-family dwelling or zone.~~

A. Minimum Lot Sizes

1. The minimum lot size required is 6,000 square feet for an IADU.
2. The minimum lot size required is 8,000 square feet for a DADU. (Ord. 2021-14, 9-28-2021)

11-19-6: NUMBER OF ACCESSORY DWELLING UNITS:

A maximum of one ~~ADUaccessory dwelling unit~~ shall be allowed ~~in each owner-occupied single-family dwelling per lot.~~ (Ord. 2021-14, 9-28-2021)

11-19-7: ADDRESS:

The ~~primaryprincipal dwelling unit~~ and the ~~ADUaccessory dwelling unit~~ shall have the same address number but shall refer to the ~~ADUaccessory dwelling unit~~ as “Unit B.” Addresses must be located in a visible location on the street frontage side of the home. (Ord. 2021-14, 9-28-2021)

11-19-8: SEPARATE LIVING AREAS:

An ~~ADU~~accessory dwelling unit must provide a kitchen, living areas ~~for eating~~, sleeping area, and a full bathroom, including, sink, toilet shower/bath, separate from the ~~primary~~principal dwelling ~~unit~~. (Ord. 2021-14, 9-28-2021)

11-19-9: FIRE, BUILDING, AND HEALTH CODES:

An ~~ADU~~ shall comply with all building construction and fire codes in effect at the time the ~~ADU~~ is constructed, created or subsequently remodeled, including the obtaining of required building and other permits. (Ord. 2021-14, 9-28-2021)

11-19-10: UTILITY METERS:

A single-family dwelling with an ~~ADU~~accessory dwelling shall have only one (1) meter for each water, gas, and electricity utility service, and each meter shall be in the property owner's name. Installing separate utility meters for the ADU is prohibited. (Ord. 2021-14, 9-28-2021)

11-19-11: NOT INTENDED FOR SALE:

~~ADUs~~Accessory dwelling units shall not be sold separately nor subdivided from the primary dwelling unit or lot. (Ord. 2021-14, 9-28-2021)

11-19-12: ACCESSORY DWELLING UNIT REGISTRATION / BUSINESS LICENSE:

Any person owning an existing ~~ADU~~accessory dwelling unit that has not previously been permitted by the city, or any person constructing or causing the construction of a residence that has an ~~ADU~~accessory dwelling unit, or any person remodeling or causing the remodeling of a residence for an ~~ADU~~accessory dwelling unit, shall register the ~~ADU~~accessory dwelling unit with the Community Development Department. If the ~~ADU~~accessory dwelling unit is a rental unit a business license is also required. This shall be in addition to a building permit for the work to be performed. In order to meet the requirements of the registration, the applicant shall:

A. Submit a fee as identified in the Consolidated Fee Schedule with a completed registration form/application including a site plan that shows property lines and dimensions, the location of existing buildings and building entrances, dimensions from buildings or additions to property lines, the location of parking stalls, and utility meter.

B. Include detailed floor plans with labels on rooms indicating uses or proposed uses.

C. Pay building permit fees, if applicable, for the construction and/or remodeling of an existing dwelling, in accordance with the established fees and charges.

D. Make all corrections identified as necessary to comply with building code requirements, as identified by the chief building official or ~~his~~ designee and provide

photos of the life safety items required by building code, including carbon monoxide detectors, smoke detectors, and earthquake strapping on water heaters.

~~E. Failure To Complete and Obtain a Land Use Permit: If the property owner does not obtain a land use permit as outlined this chapter, the IADU shall not be considered legal or approved. Failure to obtain a land use permit for an existing dwelling unit within two (2) years of this section may result in a citation for a code violation as governed by Title 1-16. "Code Enforcement," of this Code.~~

FE. Failure to complete registration of IADU: If the property owner does not complete the registration as outlined above, the ADUaccessory dwelling unit shall not be considered legal or approved. Failure to complete the registration of an existing ADUaccessory dwelling unit may result in a fine, which may result in a lien on the property. After the fine is assessed, the building official or ~~his~~ designee shall determine an appropriate deadline for compliance. An additional fine may be assessed for each deadline that is not met. (Ord. 2021-14, 9-28-2021)

11-19-13: HOME OCCUPATION BUSINESSES:

Home occupation businesses which may be approved in an ADUaccessory dwelling unit shall be restricted to a home office use which creates no customer traffic. No home occupation business shall be established within an ADUaccessory dwelling unit without the express written permission of the property owner, and approval from the City Business license official. (Ord. 2021-14, 9-28-2021)

11-19-14: DEVELOPMENT STANDARDS:

Internal Accessory Dwelling Units (IADU's):

~~A. Size: The total area of the IADU shall be fifty percent (50%) or less of the total square footage of the primary residence and be located within the footprint of the home.~~

BA. Appearance: The architectural design, color pallet, and materials for an IADU shall be similar to the primary dwelling unit. The use of portable storage containers in the creation or construction of IADU's is prohibited.

CB. Location: IADUs shall meet the same setbacks as required for the primary residence in the zone.

~~1. IADUs and the primary dwelling must be on the same parcel and may not be subdivided.~~

1.2. IADUsAccessory dwelling units may be allowed as long as the zoning requirements for properties in a single-family neighborhood are met. The IADU shall not be within the building front, rear, or side yard setbacks for the zoning district in which the dwelling lot is located. In addition, the following standards apply:

2.3. IADUs~~Attached accessory dwelling units~~ are allowed:

- a. Over an attached garage, provided the accessory unit does not otherwise disrupt required covered parking.
- b. Inside the primary residential dwelling through an internal conversion of the housing unit as an addition or in the basement.
- c. By an addition to the house, containing an internal connection between dwelling units provided that the addition will not alter the single-family character of the building.

DC. Building Entrances: An IDAU~~accessory dwelling unit~~ shall have a separate entrance located on any side or rear of the single-family home or at the front of the home if it is below grade and maintains the characteristics of a single-family home. The purpose of this requirement is to preserve the single-family residential appearance of the building.

~~E. Parking: A single-family dwelling with an accessory dwelling unit shall provide at least one (1) additional off-street parking space for the IADU. In no case shall the number of off-street parking spaces be less than the number of vehicles being maintained on the premises. This shall include covered parking, garages and tandem parking in driveways. Tandem parking within a driveway is allowed to meet the parking requirement. No parking spaces may be located within the front or side yard setbacks adjacent to a street, except for within an approved driveway. At a minimum, all parking areas and driveways shall be paved with concrete, asphalt, masonry, or concrete pavers. Permitted accessory parking standards must meet minimum parking requirements. No accessory dwelling may be allowed on any lot that cannot satisfy the parking requirements. (Ord. 2021-14, 9-28-2021)~~

Detached Accessory Dwelling Units (DADU's):

- A. Appearance: The architectural design, color pallet, and materials for a DADU shall be similar to the primary dwelling unit. The use of portable storage containers in the creation or construction of DADU's is prohibited.
- B. Location: DADU's shall be located in the rear yard of the primary dwelling.
- C. Height: DADU's shall be single story only and not include any livable square footage above or below the ground story level and are subject to the following total height restrictions.
 1. Flat roof types are limited to a maximum height of twelve feet (12')
 2. Pitched roof types are limited to a maximum height of eighteen feet (18')

1. DADU's shall not exceed the height of the primary dwelling
- A. Height Exception: DADU's built above a detached garage are limited to a maximum height of twenty-five feet (25') or the height of the primary dwelling, whichever is less.
- B. Setbacks: DADU's shall maintain the following setbacks.
 1. Rear: 10 feet if single-story and 20 feet if DADU is built above a detached garage
 2. Side: 10 feet
 3. Corner Side: 20 feet on the side adjacent to a street
 4. Distance from Primary Dwelling: 10 feet
- C. Size: DADU's shall comply with the following size and total floor area requirements.
 1. Building footprint not to exceed 50% of the footprint of the primary dwelling
 2. Minimum: Total floor area to be no less than 200 square feet
 3. Maximum: Total floor area not to exceed 1000 square feet
- . Lot Coverage: DADU's shall comply with the following lot coverage requirements. Coverage calculation is for all buildings and structures, both main and accessory, and shall not exceed the listed percentages based on lot size.
 1. Lot Size of 43,560 square feet and larger: 20%
 2. Lot Size of 43,559 to 15,000 square feet: 30%
 3. Lot Size of 14,999 to 8,000 square feet: 40%

11-19-15: PARKING:

A single-family dwelling with an ADU shall provide at least one (1) additional off-street parking space for the ADU, above the minimum spaces required for a single-family dwelling. The additional space may include the use of covered parking, a garage, or an approved driveway. Gravel or crushed rock accessory parking areas cannot be used to meet the parking requirement. (Ord. 2021-14, 9-28-2021)

CLEARFIELD CITY ORDINANCE 2025-22

AN ORDINANCE AMENDING TITLE 11 OF THE CLEARFIELD CITY CODE

PREAMBLE: This Ordinance amends Title 11, Chapter 11, Article G – Form Based Code of the Clearfield City Code.

BE IT ORDAINED BY THE CLEARFIELD CITY COUNCIL:

Section 1. Enactment:

Title 11, Chapter 11, Article G, Chapter 3.0, Sub Chapter 3.3, Paragraph 3 – Form Based Code, Uses, Use Type Standard, Retail Uses is hereby amended by adding “Trailer Sales” to the list of Retail Uses.

Title 11, Chapter 11, Article G, Chapter 3.0, Sub Chapter 3.3, Table 3.3(1) – Form Based Code, Uses, Use Type Standard, Permitted Uses by Zone is hereby amended by adding Trailer Sales w/Outdoor Sales Lot to the Town Mixed Commerce (TC) Zone as Permitted with Development Standards (D) in the TC column.

Title 11, Chapter 11, Article G, Chapter 3.0, Sub Chapter 3.3, Table 3.3(1) – Form Based Code, Uses, Use Type Standard, Permitted Uses by Building Type is hereby amended by adding Trailer Sales w/Outdoor Sales Lot as Permitted with Development Standards (D) in the CM (Commercial) column.

Title 11, Chapter 11, Article G, Chapter 3.0, Sub Chapter 3.4, Paragraph 1 – Form Based Code, Uses, Use Development Standards, Development Standards by Use Category is hereby amended to read as follows:

3.4 Use Development Standards

1. Development Standards by Use Category

(2) Retail Uses

(a) Pawn and secondhand businesses are limited to a maximum of 5,000 square feet of retail space in the TR zone. This includes pawn and secondhand businesses for general merchandise, military surplus, precious metals and/or gems dealers/processors.

(b) Motor vehicle sales shall have a 1 acre minimum lot size; a permanent on-site office is required. No cars may be displayed outside within 10 feet of the primary street right of way.

(c) Trailer sales shall have a 1.5 acre minimum lot size; a permanent on-site office is required. No trailers may be displayed within 10 feet of a street right-of-way. Trailers displayed between the primary street right-of-way and the primary street facing façade of the on-site office shall maintain a minimum separation of three feet (3') between each trailer. Stacking of trailers for display purposes is not permitted between the primary street right-of-way and the primary street facing façade of the on-site office or within fifty feet (50') of an abutting secondary street. Trailers stacked for display shall not exceed a total height of twelve feet (12'). Trailers stacked for the purpose of receiving multiple trailers or to prepare for the removal of multiple trailers shall be stacked no longer than seventy-two (72) hours.

(3) Service Uses

(a) Vehicle Services

- (i) Vehicle repair is only allowed as a secondary use to vehicle sales.
- (ii) Use Limitation. Repair and wash facilities for semitrucks, recreational vehicles, boats, trailers, and other oversized vehicles are not permitted.
- (iii) Service Bays. Vehicular service bays, including garages and car wash bays, shall not be located on the front facade, unless otherwise permitted by the Building Type. Service bay doors shall be transparent.
- (iv) Outdoor Storage. Disabled or inoperable vehicles and those awaiting pick-up may be stored outdoors if:
 - i. Vehicles are not stored for more than two days.
 - ii. The storage area is located in the rear yard and screened from view of the front lot line and/or corner lot line.
 - ii. The storage area is screened using the Side & Rear yard buffer outlined in 7.0 Landscape, regardless of the adjacent land uses.
- (v) Outdoor Activities
 - i. All repairs or washing activities must occur inside a structure.
 - ii. Vacuuming activities may occur outdoors, but must be located in the side or rear yards, screened from the front lot line.
 - iii. Temporary outdoor display of seasonal items, such as windshield wiper fluid or salt, is permitted during business hours under the canopy and adjacent to the principal structure.
- (vi) Fuel pumps must be in rear or side of building.

Section 2. Repealer: Any provision or ordinances that are in conflict with this ordinance are hereby repealed.

Section 3. Effective Date: These amendments shall become effective immediately upon passage and posting.

Passed and adopted by the Clearfield City Council this 25th day of November, 2025.

CLEARFIELD CITY CORPORATION

Mark R. Shepherd, Mayor

ATTEST:

Nancy R. Dean, City Recorder

VOTE OF THE COUNCIL

AYE:

NAY:

CLEARFIELD CITY ORDINANCE 2025-23

(Option A – no minimum lot size)

AN ORDINANCE AMENDING TITLE 11 OF THE CLEARFIELD CITY CODE

PREAMBLE: This Ordinance amends Title 11 – Land Use, Chapter 19 – Internal Accessory Dwelling Units.

BE IT ORDAINED BY THE CLEARFIELD CITY COUNCIL:

Section 1. Enactment:

Title 11 – Land Use, Chapter 19 – Internal Accessory Dwelling Units is hereby amended by renaming it to Accessory Dwelling Units.

Title 11 – Land Use, Chapter 19 – Accessory Dwelling Units is hereby amended by as follows:

CHAPTER 19

ACCESSORY DWELLING UNITS

11-19-1: PURPOSE AND INTENT:

The Accessory Dwelling Unit (ADU) ordinance is established to provide areas for the encouragement and promotion of an environment for family life by providing for the establishment of an accessory unit in conjunction with single-family detached dwellings on individual lots. This ordinance is hereby established to promote the use of ADUs; to provide flexibility for the changes in household size associated with life cycle; to offer financial security for home buyers; and to offer security against problems associated with frailty in old age. These provisions are also intended to provide for affordable housing with reasonable limitations to minimize the impact on neighboring properties and neighborhoods, and to promote the health, safety, and welfare of the property owners and residents of ADUs.

11-19-2: DEFINITIONS:

ACCESSORY DWELLING UNIT (ADU): A subordinate dwelling, which has its own kitchen, living/sleeping area, and full bathroom, including, sink, toilet shower/bath which may be within or attached to a single-family residential building, or detached from a single-family residential building.

INTERNAL ACCESSORY DWELLING UNIT (IADU): An accessory dwelling within or attached to a single-family residential building.

DETACHED ACCESSORY DWELLING UNIT (DADU): An accessory dwelling that is on the same lot as a single-family building, but is a separate structure from the single-family building.

PRIMARY DWELLING: The main or principal dwelling on a lot used to accommodate the primary use to which the premises is devoted. In the context of this chapter, the primary dwelling is a single-family residential building.

11-19-3: OWNER OCCUPIED:

No ADUs shall be created, established, or occupied unless the bona fide property owner(s) as shown on the Davis County tax assessment rolls resides fulltime on the property within either the primary dwelling or ADU.

11-19-4: DWELLING UNIT OCCUPANCY:

The occupants of an ADU shall be limited to a single family as defined in Section 11-3-3 of Clearfield City Code.

11-19-5: ZONES:

An ADU which meets ordinance requirements and development standards may be allowed within all single-family and agricultural zones.

11-19-6: NUMBER OF ACCESSORY DWELLING UNITS:

A maximum of one ADU shall be allowed per lot.

11-19-7: ADDRESS:

The primary dwelling and the ADU shall have the same address number but shall refer to the ADU as “Unit B.” Addresses must be located in a visible location on the street frontage side of the home.

11-19-8: SEPARATE LIVING AREAS:

An ADU must provide a kitchen, living area, sleeping area, and a full bathroom, including, sink, toilet shower/bath, separate from the primary dwelling.

11-19-9: FIRE, BUILDING, AND HEALTH CODES:

An ADU shall comply with all building construction and fire codes in effect at the time the ADU is constructed, created or subsequently remodeled, including the obtaining of required building and other permits.

11-19-10: UTILITY METERS:

A single-family dwelling with an ADU shall have only one (1) meter for each water, gas, and electricity utility service, and each meter shall be in the property owner’s name. Installing separate utility meters for the ADU is prohibited.

11-19-11: NOT INTENDED FOR SALE:

ADUs shall not be sold separately nor subdivided from the primary dwelling unit or lot.

11-19-12: ACCESSORY DWELLING UNIT REGISTRATION / BUSINESS LICENSE:

Any person owning an existing ADU that has not previously been permitted by the city, or any person constructing or causing the construction of a residence that has an ADU, or any person remodeling or causing the remodeling of a residence for an ADU, shall register the ADU with the Community Development Department. If the ADU is a rental unit a business license is also required. This shall be in addition to a building permit for the work to be performed. In order to meet the requirements of the registration, the applicant shall:

- A. Submit a fee as identified in the Consolidated Fee Schedule with a completed registration form/application including a site plan that shows property lines and dimensions, the location of existing buildings and building entrances, dimensions from buildings or additions to property lines, the location of parking stalls, and utility meter.
- B. Include detailed floor plans with labels on rooms indicating uses or proposed uses.
- C. Pay building permit fees, if applicable, for construction and/or remodeling, in accordance with the established fees and charges.
- D. Make all corrections identified as necessary to comply with building code requirements, as identified by the chief building official or designee and provide photos of the life safety items required by building code, including carbon monoxide detectors, smoke detectors, and earthquake strapping on water heaters.
- E. Failure to complete registration of ADU: If the property owner does not complete the registration as outlined above, the ADU shall not be considered legal or approved. Failure to complete the registration of an existing ADU may result in a fine, which may result in a lien on the property. After the fine is assessed, the building official or designee shall determine an appropriate deadline for compliance. An additional fine may be assessed for each deadline that is not met.

11-19-13: HOME OCCUPATION BUSINESSES:

Home occupation businesses which may be approved in an ADU shall be restricted to a home office use which creates no customer traffic. No home occupation business shall be established within an ADU without the express written permission of the property owner, and approval from the City Business license official.

11-19-14: DEVELOPMENT STANDARDS:

Internal Accessory Dwelling Units (IADU's):

A. Appearance: The architectural design, color pallet, and materials for an IADU shall be similar to the primary dwelling unit. The use of portable storage containers in the creation or construction of IADU's is prohibited.

B. Location: IADUs shall meet the same setbacks as required for the primary residence in the zone.

1. IADUs may be allowed as long as the zoning requirements for properties in a single-family neighborhood are met. The IADU shall not be within the building front, rear, or side yard setbacks for the zoning district in which the dwelling lot is located. In addition, the following standards apply:

2. IADUs are allowed:

a. Over an attached garage, provided the accessory unit does not otherwise disrupt required covered parking.

b. Inside the primary residential dwelling through an internal conversion of the housing unit as an addition or in the basement.

c. By an addition to the house, containing an internal connection between dwelling units provided that the addition will not alter the single-family character of the building.

C. Building Entrances: An IDAU shall have a separate entrance located on any side or rear of the single-family home or at the front of the home if it is below grade and maintains the characteristics of a single-family home. The purpose of this requirement is to preserve the single-family residential appearance of the building.

Detached Accessory Dwelling Units (DADU's):

A. Appearance: The architectural design, color pallet, and materials for a DADU shall be similar to the primary dwelling unit. The use of portable storage containers in the creation or construction of DADU's is prohibited.

B. Location: DADU's shall be located in the rear yard of the primary dwelling.

C. Height: DADU's shall be single story only and not include any livable square footage above or below the ground story level and are subject to the following total height restrictions.

1. Flat roof types are limited to a maximum height of twelve feet (12')

2. Pitched roof types are limited to a maximum height of eighteen feet (18')

3. DADU's shall not exceed the height of the primary dwelling

D. Height Exception: DADU's built above a detached garage are limited to a maximum height of twenty-five feet (25') or the height of the primary dwelling, whichever is less.

E. Setbacks: DADU's shall maintain the following setbacks.

1. Rear: 10 feet if single-story and 20 feet if DADU is built above a detached garage
2. Side: 10 feet
3. Corner Side: 20 feet on the side adjacent to a street
4. Distance from Primary Dwelling: 10 feet

F. Size: DADU's shall comply with the following size and total floor area requirements.

1. Building footprint not to exceed 50% of the footprint of the primary dwelling
2. Minimum: Total floor area to be no less than 200 square feet
3. Maximum: Total floor area not to exceed 1000 square feet

G. Lot Coverage: DADU's shall comply with the following lot coverage requirements.

Coverage calculation is for all buildings and structures, both main and accessory, and shall not exceed the listed percentages based on lot size.

1. Lot Size of 43,560 square feet and larger: 20%
2. Lot Size of 43,559 to 15,000 square feet: 30%
3. Lot Size of 14,999 square feet and below: 40%

11-19-15: PARKING:

A single-family dwelling with an ADU shall provide at least one (1) additional off-street parking space for the ADU, above the minimum spaces required for a single-family dwelling. The additional space may include the use of covered parking, a garage, or an approved driveway. Gravel or crushed rock accessory parking areas cannot be used to meet the parking requirement.

Section 2. Repealer: Any provision or ordinances that are in conflict with this ordinance are hereby repealed.

Section 3. Effective Date: This Ordinance shall become effective immediately upon its posting in three public places within Clearfield City.

DATED this 15th day of November, 2025, at the regularly scheduled meeting of the Clearfield City Council.

CLEARFIELD CITY CORPORATION

Mark R. Shepherd, Mayor

ATTEST

Nancy R. Dean, City Recorder

VOTE OF THE COUNCIL

AYE:

NAY:

CLEARFIELD CITY ORDINANCE 2025-23

(Option B – 8,000 sf minimum lot size)

AN ORDINANCE AMENDING TITLE 11 OF THE CLEARFIELD CITY CODE

PREAMBLE: This Ordinance amends Title 11 – Land Use, Chapter 19 – Internal Accessory Dwelling Units.

BE IT ORDAINED BY THE CLEARFIELD CITY COUNCIL:

Section 1. Enactment:

Title 11 – Land Use, Chapter 19 – Internal Accessory Dwelling Units is hereby amended by renaming it to Accessory Dwelling Units.

Title 11 – Land Use, Chapter 19 – Accessory Dwelling Units is hereby amended by as follows:

CHAPTER 19

ACCESSORY DWELLING UNITS

11-19-1: PURPOSE AND INTENT:

The Accessory Dwelling Unit (ADU) ordinance is established to provide areas for the encouragement and promotion of an environment for family life by providing for the establishment of an accessory unit in conjunction with single-family detached dwellings on individual lots. This ordinance is hereby established to promote the use of ADUs; to provide flexibility for the changes in household size associated with life cycle; to offer financial security for home buyers; and to offer security against problems associated with frailty in old age. These provisions are also intended to provide for affordable housing with reasonable limitations to minimize the impact on neighboring properties and neighborhoods, and to promote the health, safety, and welfare of the property owners and residents of ADUs.

11-19-2: DEFINITIONS:

ACCESSORY DWELLING UNIT (ADU): A subordinate dwelling, which has its own kitchen, living/sleeping area, and full bathroom, including, sink, toilet shower/bath which may be within or attached to a single-family residential building, or detached from a single-family residential building.

INTERNAL ACCESSORY DWELLING UNIT (IADU): An accessory dwelling within or attached to a single-family residential building.

DETACHED ACCESSORY DWELLING UNIT (DADU): An accessory dwelling that is on the same lot as a single-family building, but is a separate structure from the single-family building.

PRIMARY DWELLING: The main or principal dwelling on a lot used to accommodate the primary use to which the premises is devoted. In the context of this chapter, the primary dwelling is a single-family residential building.

11-19-3: OWNER OCCUPIED:

No ADUs shall be created, established, or occupied unless the bona fide property owner(s) as shown on the Davis County tax assessment rolls resides fulltime on the property within either the primary dwelling or ADU.

11-19-4: DWELLING UNIT OCCUPANCY:

The occupants of an ADU shall be limited to a single family as defined in Section 11-3-3 of Clearfield City Code.

11-19-5: ZONES AND LOT SIZE REQUIREMENTS:

An ADU which meets ordinance requirements and development standards may be allowed within all single-family and agricultural zones.

A. Minimum Lot Sizes

1. The minimum lot size required is 6,000 square feet for an IADU.
2. The minimum lot size required is 8,000 square feet for a DADU.

11-19-6: NUMBER OF ACCESSORY DWELLING UNITS:

A maximum of one ADU shall be allowed per lot.

11-19-7: ADDRESS:

The primary dwelling and the ADU shall have the same address number but shall refer to the ADU as “Unit B.” Addresses must be located in a visible location on the street frontage side of the home.

11-19-8: SEPARATE LIVING AREAS:

An ADU must provide a kitchen, living area, sleeping area, and a full bathroom, including, sink, toilet shower/bath, separate from the primary dwelling.

11-19-9: FIRE, BUILDING, AND HEALTH CODES:

An ADU shall comply with all building construction and fire codes in effect at the time the ADU is constructed, created or subsequently remodeled, including the obtaining of required building and other permits.

11-19-10: UTILITY METERS:

A single-family dwelling with an ADU shall have only one (1) meter for each water, gas, and electricity utility service, and each meter shall be in the property owner's name. Installing separate utility meters for the ADU is prohibited.

11-19-11: NOT INTENDED FOR SALE:

ADUs shall not be sold separately nor subdivided from the primary dwelling unit or lot.

11-19-12: ACCESSORY DWELLING UNIT REGISTRATION / BUSINESS LICENSE:

Any person owning an existing ADU that has not previously been permitted by the city, or any person constructing or causing the construction of a residence that has an ADU, or any person remodeling or causing the remodeling of a residence for an ADU, shall register the ADU with the Community Development Department. If the ADU is a rental unit a business license is also required. This shall be in addition to a building permit for the work to be performed. In order to meet the requirements of the registration, the applicant shall:

A. Submit a fee as identified in the Consolidated Fee Schedule with a completed registration form/application including a site plan that shows property lines and dimensions, the location of existing buildings and building entrances, dimensions from buildings or additions to property lines, the location of parking stalls, and utility meter.

B. Include detailed floor plans with labels on rooms indicating uses or proposed uses.

C. Pay building permit fees, if applicable, for construction and/or remodeling, in accordance with the established fees and charges.

D. Make all corrections identified as necessary to comply with building code requirements, as identified by the chief building official or designee and provide photos of the life safety items required by building code, including carbon monoxide detectors, smoke detectors, and earthquake strapping on water heaters.

E. Failure to complete registration of ADU: If the property owner does not complete the registration as outlined above, the ADU shall not be considered legal or approved. Failure to complete the registration of an existing ADU may result in a fine, which may result in a lien on the property. After the fine is assessed, the building official or designee shall determine an appropriate deadline for compliance. An additional fine may be assessed for each deadline that is not met.

11-19-13: HOME OCCUPATION BUSINESSES:

Home occupation businesses which may be approved in an ADU shall be restricted to a home office use which creates no customer traffic. No home occupation business shall be established within an ADU without the express written permission of the property owner, and approval from the City Business license official.

11-19-14: DEVELOPMENT STANDARDS:

Internal Accessory Dwelling Units (IADU's):

A. Appearance: The architectural design, color pallet, and materials for an IADU shall be similar to the primary dwelling unit. The use of portable storage containers in the creation or construction of IADU's is prohibited.

B. Location: IADUs shall meet the same setbacks as required for the primary residence in the zone.

1. IADUs may be allowed as long as the zoning requirements for properties in a single-family neighborhood are met. The IADU shall not be within the building front, rear, or side yard setbacks for the zoning district in which the dwelling lot is located. In addition, the following standards apply:

2. IADUs are allowed:

a. Over an attached garage, provided the accessory unit does not otherwise disrupt required covered parking.

b. Inside the primary residential dwelling through an internal conversion of the housing unit as an addition or in the basement.

c. By an addition to the house, containing an internal connection between dwelling units provided that the addition will not alter the single-family character of the building.

C. Building Entrances: An IDAU shall have a separate entrance located on any side or rear of the single-family home or at the front of the home if it is below grade and maintains the characteristics of a single-family home. The purpose of this requirement is to preserve the single-family residential appearance of the building.

Detached Accessory Dwelling Units (DADU's):

A. Appearance: The architectural design, color pallet, and materials for a DADU shall be similar to the primary dwelling unit. The use of portable storage containers in the creation or construction of DADU's is prohibited.

B. Location: DADU's shall be located in the rear yard of the primary dwelling.

C. Height: DADU's shall be single story only and not include any livable square footage above or below the ground story level and are subject to the following total height restrictions.

1. Flat roof types are limited to a maximum height of twelve feet (12')

2. Pitched roof types are limited to a maximum height of eighteen feet (18')

3. DADU's shall not exceed the height of the primary dwelling
- D. Height Exception: DADU's built above a detached garage are limited to a maximum height of twenty-five feet (25') or the height of the primary dwelling, whichever is less.
- E. Setbacks: DADU's shall maintain the following setbacks.
 1. Rear: 10 feet if single-story and 20 feet if DADU is built above a detached garage
 2. Side: 10 feet
 3. Corner Side: 20 feet on the side adjacent to a street
 4. Distance from Primary Dwelling: 10 feet
- F. Size: DADU's shall comply with the following size and total floor area requirements.
 1. Building footprint not to exceed 50% of the footprint of the primary dwelling
 2. Minimum: Total floor area to be no less than 200 square feet
 3. Maximum: Total floor area not to exceed 1000 square feet
- G. Lot Coverage: DADU's shall comply with the following lot coverage requirements. Coverage calculation is for all buildings and structures, both main and accessory, and shall not exceed the listed percentages based on lot size.
 1. Lot Size of 43,560 square feet and larger: 20%
 2. Lot Size of 43,559 to 15,000 square feet: 30%
 3. Lot Size of 14,999 to 8,000 square feet: 40%

11-19-15: PARKING:

A single-family dwelling with an ADU shall provide at least one (1) additional off-street parking space for the ADU, above the minimum spaces required for a single-family dwelling. The additional space may include the use of covered parking, a garage, or an approved driveway. Gravel or crushed rock accessory parking areas cannot be used to meet the parking requirement.

Section 2. Repealer: Any provision or ordinances that are in conflict with this ordinance are hereby repealed.

Section 3. Effective Date: This Ordinance shall become effective immediately upon its posting in three public places within Clearfield City.

DATED this 18th day of October, 2024, at the regularly scheduled meeting of the Clearfield City Council.

CLEARFIELD CITY CORPORATION

Mark R. Shepherd, Mayor

ATTEST

Nancy R. Dean, City Recorder

VOTE OF THE COUNCIL

AYE:

NAY:

TO: Mayor Shepherd and City Council Members

FROM: Stacy Millgate, Community Development Director

MEETING DATE: November 25, 2025

SUBJECT: Amendments to Title 4 – Business and License Regulations

RECOMMENDED ACTION

Review and approve proposed amendments to Title 4 - Business and License Regulations

DESCRIPTION / BACKGROUND

Staff is proposing a series of updates to Title 4 – Business and License Regulations to ensure alignment with recent state legislation and to modernize existing code language. The proposed changes include:

Compliance with State Law:

- **H.B. 278 – Massage Therapy:** Updates are necessary to reflect recent modifications to state regulations governing massage therapy.
- **H.B. 432 – Tobacco and Electronic Cigarette Modifications:** Amendments are proposed to incorporate new state requirements related to the licensing and regulation of tobacco and electronic cigarette retailers.

Code Modernization and Cleanup:

- **Partial Repeal of Chapter 7 – Good Landlord Program:** Staff is recommending the repeal of the Good Landlord Program portion of Chapter 7, as the program is no longer active or administered by the City.
- **New Regulations for Mobile Food Vendors:** Chapter 14 is proposed to address and regulate mobile food vendors operating within the City.
- **Minor Amendments Throughout:** Various minor revisions are included to update outdated language, improve clarity, and maintain consistency across the chapters.

These updates are intended to ensure the City's business licensing regulations remain up to date, legally compliant, and reflective of current practices. A work session was held with the City Council on August 5, 2025, where council provided feedback to staff on some additional changes, as it



relates to insurance requirements for mobile food vendors.

CORRESPONDING POLICY PRIORITIES

- Providing Quality Municipal Services

FISCAL IMPACT

None

ALTERNATIVES

The City Council may modify the proposed code amendments or suggest alternative language that differs from the version drafted by staff.

SCHEDULE / TIME CONSTRAINTS

State-mandated updates to Chapter 10 – Retail Tobacco Specialty Businesses became effective on May 7, 2025. Additional changes related to Massage Therapy Businesses took effect on October 1, 2025.

LIST OF ATTACHMENTS

- Proposed Amendments to Title 4

TITLE 4

BUSINESS AND LICENSE REGULATIONS

CHAPTER 1
GENERAL BUSINESS AND LICENSE PROVISIONS

SECTION:

- 4-1-1: Definitions
- 4-1-2: Classifications; Privileges
- 4-1-3: Business License Official
- 4-1-4: License Required; Exceptions
- 4-1-5: Application For License
- 4-1-6: Review And Approval Procedures
- 4-1-7: Denial Or Revocation
- 4-1-8: Appeal Of Business License Official's Decision
- 4-1-9: Fee For License
- 4-1-10: License Period
- 4-1-11: Delinquent Date And Late Fee
- 4-1-12: Rules And Regulations Of License And Licensee
- 4-1-13: Inspections Of Premises
- 4-1-14: False Information Prohibited
- 4-1-15: Penalty

4-1-1: DEFINITIONS:

For the purposes of this title, the following terms shall have the meanings herein prescribed:

APPLICANT: Any person applying for any license provided for in this title. If the person is a partnership or corporation, then each partner, officer or director is considered an applicant and must qualify accordingly.

BASE FEE: The fee determined as the cost to prepare, process and administer the business license.

BUSINESS: Includes all activities together with any devices, machines or vehicles used therein for the purpose of gain or economic profit.

CLASS OF BUSINESS: A group of businesses doing similar types of things.

DISPROPORTIONATE COST: The additional cost assessed to businesses that require a greater level of basic service.

EMPLOY: Hiring an individual to work for pecuniary compensation or any other form of compensation, whether such person is hired on the payroll of the employer, as an independent contractor, as an agent or in any other form of employment relationship.

ENGAGING IN BUSINESS: One act constitutes engaging in business, and includes, but is not limited to, the sale of tangible personal or real property and the rendering of personal service for others for a consideration by persons engaged in craft, business, occupation, hobbies or other calling. Engaging in business shall also include, but not be limited to, one act of selling of any goods or services or soliciting business, or offering goods or services for hire. Engaging in business shall include the occupancy of any office or other space in which business transactions are carried out. Engaging in business shall also include the renting by a lessor of space, whether enclosed or not, to be used as office space for any use or endeavor, including, but not limited to, commercial, medical, dental, or other professional activities. Engaging in business shall also include the renting by a lessor of ~~three (3)~~ **one (1)** or more rental units, buildings, apartments, or houses for the purpose of profit, whether the units are enclosed within one structure or combination thereof.

ENTITY: Includes a corporation, partnership, limited liability company, or other lawful entity, organization, society or association.

HAZARDOUS MATERIAL: Those chemicals or substances which are physical hazards or health hazards in usable or waste condition according to the city's currently adopted fire code.

HOME OCCUPATION: Any income producing use conducted entirely within a dwelling unit and carried on only by persons residing in that dwelling unit, which use is clearly incidental, secondary and compatible to the residential use of the building. In general, a home occupation is an accessory use so located and conducted, that the average neighbor, under normal conditions, would be unaware of its existence.

LICENSEE: Any person who is issued a license under the provisions of this title.

MINOR: Any person less than eighteen (18) years of age.

MOBILE FOOD VENDOR: A person or entity engaged in selling food from a temporary location or mobile structure for a temporary period of time.

NEW BUSINESS: Any activity which results in gain or economic profit which has not been conducted previously by another licensee on that premises.

NONPROFIT ORGANIZATION: Any organization which was organized and is operating for charitable purposes and which meets the requirements of the internal revenue service of the U.S. department of treasury that exempt the organization from income taxation under the provisions of the internal revenue code.

PAWNBROKER: Shall have the meaning set forth in Utah Code Annotated title 13, chapter 32a for pawn and secondhand businesses.

PERSON: An individual, individuals, tenants in common, joint tenants, a corporation, partnership, firm, limited partnership, or any other association of individuals, however comprised or designated.

RENTAL DWELLING UNIT: Any individual dwelling unit, parcel of land, or portion thereof that is rented, loaned, let or hired out to be used or occupied as a home or residence. Rental dwelling unit includes any single-family home, duplex, townhome, condominium, mobile home, manufactured home, modular home, or apartment when used for such purposes.

TEMPORARY OR SEASONAL MERCHANT: A person who sells any nonfood product (i.e., flowers, Christmas trees, handcrafted items, etc.) at a temporary location for a temporary period of time. (Ord. 2009-15, 11-24-2009)

4-1-2: CLASSIFICATIONS; PRIVILEGES:

A. Classifications: Licenses issued under the provisions of this chapter shall be of the following classes:

1. General business.
2. Temporary or seasonal merchant.
3. Beer.
4. Sexually oriented business.
5. Sexually oriented business employee.
6. Consumer fireworks sales.
7. Pawnbroker.
8. Rental dwelling.
9. Solicitor.
10. Mobile food vendor. (Ord. 2009-15, 11-24-2009)
11. Retail tobacco specialty business. (Ord. 2012-04, 6-12-2012, eff. 7-1-2012)
- ~~12. Tattoo or body piercing establishment. (Ord. 2013-02, 2-12-2013)~~

B. Privileges:

1. General Business License: A general business license shall allow the licensee to conduct business within the city as prescribed by this title, including the operation of a home occupation. Additional regulations for home occupations are set forth in title 11, chapter 16 of this code.
2. Temporary Or Seasonal Merchant License: A temporary or seasonal merchant license shall allow the licensee to engage in the business of selling nonfood products for a temporary period of time at a temporary location within the city pursuant to additional regulations for temporary or seasonal merchant licenses as set forth in this chapter, chapter 9 of this title, and title 11 of this code. A temporary or seasonal merchant's license shall not be required for merchants participating in a city sponsored event or activity.

3. Beer License: A beer license shall allow the licensee to engage in the business of selling beer within the city pursuant to additional privileges and regulations for beer licenses as set forth in this chapter and chapter 2 of this title. A valid general business license is required prior to the issuance of a beer license.

4. Sexually Oriented Business License: A sexually oriented business license shall allow the licensee to conduct a sexually oriented business within the city pursuant to additional regulations for sexually oriented business licenses as set forth in this chapter, ~~and~~ chapter 4 of this title, and title 11 of this code.

5. Sexually Oriented Business Employee License: A sexually oriented business employee license shall allow the licensee to be employed by a sexually oriented business within the city pursuant to additional regulations for sexually oriented business employee licenses as set forth in this chapter and chapter 4 of this title.

6. Consumer Fireworks Sales License: A consumer fireworks sales license shall allow the licensee to engage in the business of selling consumer (class C) fireworks within the city pursuant to additional regulations for fireworks stand licenses as set forth in this chapter, ~~and 7~~-chapter 5 of this title, and title 11 of this code.

7. Pawnbroker License: A pawnbroker license shall allow the licensee to engage in the business of pawnbroker within the city pursuant to additional regulations for pawnbroker licenses as set forth in this chapter, ~~and~~ chapter 6 of this title, and title 11 of this code.

8. Rental Dwelling License: A rental dwelling license shall allow the licensee to own and/or operate a rental dwelling unit within the city pursuant to additional regulations for rental dwelling licenses as set forth in this chapter and chapter 7 of this title.

9. Solicitor's License: A solicitor's license shall allow the licensee to solicit within the city pursuant to additional regulations for solicitors' licenses set forth in chapter 8 of this title.

10. Mobile Food Vendor's License: A mobile food vendor's license shall allow the licensee to sell food within the city pursuant to additional regulations for mobile food vendor licenses set forth in chapter 14 of this title for a temporary period of time from a temporary location or mobile structure.

A mobile food vendor's license shall not be required for vendors participating in a city sponsored event or activity. ~~(Ord. 2009-15, 11-24-2009)~~A

11. Retail Tobacco Specialty License: A retail tobacco specialty license shall allow the licensee to conduct business as a retail tobacco specialty business within the city pursuant to additional regulations set forth in this chapter, chapter 10 of this title, and title 11 of this code. (Ord. 2012-04, 6-12-2012, eff. 7-1-2012)

~~12. Tattoo Or Body Piercing Establishment License: A tattoo or body piercing license shall allow the licensee to conduct business as a tattoo or body piercing business within the city pursuant to additional regulations set forth in this chapter, chapter 11 of this title, and title 11 of this code. (Ord. 2013-02, 2-12-2013)~~

4-1-3: BUSINESS LICENSE OFFICIAL:

The city shall designate a business license official whose duties shall include the following:

- A. Process Applications: To process all applications for business licenses.
- B. Collect Fees: To be responsible for collection of all license fees and any accrued penalties.
- C. Issue Licenses: To issue licenses in the name of the city to all persons qualified under the provisions of this chapter.
- D. Enforce Rules And Regulations: To enforce all reasonable rules and regulations necessary to the operation and enforcement of this chapter.
- E. Secure Confidential Information: Subject to state and federal law, to keep all information furnished or secured under the authority of this chapter in strict confidence. Such information shall not be subject to public inspection and shall be kept so that the contents thereof shall not be known except to persons charged with the administration of this chapter. (Ord. 2008-04, 7-22-2008)

4-1-4: LICENSE REQUIRED; EXCEPTIONS:

- A. Generally: It is unlawful for any person to engage in business within the city without first obtaining a license as required by this chapter.
- B. Contractors And Subcontractors: General contractors and subcontractors who live in the city or have an office in the city either in an office building or in their home, shall obtain a city business license and shall pay the base fee required by this chapter.
- C. Separate License: A separate license must be obtained for each branch established, or each separate place of business in which the business of the licensee is engaged. A separate license must be obtained for each business conducted under the same roof unless conducted through the same books.
- D. Deliveries Only: A business license will not be required of any company whose employees enter the city limits only for delivery of goods, such as flower delivery, parcel delivery, etc.
- E. Home Occupations: All home occupations shall be required to obtain a general business license in accordance with the provisions of this chapter. Additional regulations for home occupations are set forth in title 11, chapter 16 of this code. The following activities are exempt from the requirement for a general business license:
 - 1. Childcare for children of relatives.
 - 2. Newspaper carriers.
 - 3. Yard sales/garage sales.
 - 4. Youth (minor) neighborhood seasonal work. (Ord. 2009-15, 11-24-2009)

4-1-5: APPLICATION FOR LICENSE:

- A. Information Required For Application For License: All applications for a license shall be made in writing upon the form(s) provided by the city. The application shall show:

1. The name of the business and the date of application.
2. The name(s) and signature(s) of the owner(s) of the business and the applicant requesting said license.
3. All vital statistics for the owner(s) of the business and the applicant as requested on application and required for police background checks.
4. The location where business is to be conducted and the mailing address of the premises of the business. (Ord. 2009-15, 11-24-2009)
5. Proof of business registration through the Utah department of commerce or Utah division of occupational and professional licensing shall be required for the following types of businesses: general businesses, home occupations, alcoholic beverages, sexually oriented businesses, fireworks sales, pawnbrokers, temporary or seasonal merchants, retail tobacco specialty solicitor's, and mobile food vendors. Childcare providers may obtain a license from the Utah bureau of child health and safety in lieu of registration with the Utah department of commerce. (Ord. 2011-04, 2-22-2011)
6. A Utah sales tax identification number, where applicable.
7. A federal employer identification number, where applicable.
8. Verification of approval by the Davis County health department, if applicable.
9. Any other information required by ordinance or the city.

B. Additional Information Required:

1. An application for a beer license shall show the information required by chapter 2 of this title.
2. An application for a temporary or seasonal merchant's license ~~mobile food vendor's license~~ shall show the information required by chapter 9 of this title.
3. An application for a sexually oriented business or employee license shall show the information required by chapter 4 of this title.
4. An application for a fireworks stand license shall show the information required by chapter 5 of this title.
- ~~5.~~ An application for a pawnbroker license shall show the information required by chapter 6 of this title.
- ~~56.~~ An application for a rental dwelling license shall show the information required by chapter 7 of this title.
- ~~67.~~ An application for a solicitor's license shall show the information required by chapter 8 of this title. (Ord. 2009-15, 11-24-2009)
- ~~78.~~ An application for a retail tobacco specialty license shall show the information required by chapter 10 of this title. (Ord. 2012-04, 6-12-2012, eff. 7-1-2012)
9. An application for a massage business license shall show the information required by chapter 12 of this title.

10. An application for a mobile food vendor license shall show the information required by chapter 14 of this title.

4-1-6: REVIEW AND APPROVAL PROCEDURES:

A. Application Review: Upon receiving a complete application for a license, the business license official shall, upon determining that the applicant and proposed business are in compliance with all applicable city ordinances and regulations, make a decision to either approve or deny the license. In making the decision, the business license official may consider recommendations from any or all of the following city staff, or their designees, if necessary:

1. The chief of police.
2. The planning and zoning administrator.
3. The building official.
4. The city attorney.

B. Notification To Applicant: The applicant shall be notified of the decision in writing by the business license official.

C. Regulations Specific To Sexually Oriented Business And Employee Licenses: Chapter 4, "Sexually Oriented Businesses And Employees", of this title, contains additional regulations that shall apply to the review and approval procedures for an application for a sexually oriented business or employee license. (Ord. 2009-15, 11-24-2009)

4-1-7: DENIAL OR REVOCATION:

A. General Provisions: The business license official may deny an application for license or revoke a license for any of the following reasons:

1. Fraud or misrepresentation in its procurement.
2. Violation of this title by failure to comply with any or all of the provisions of this title.
3. Failure to pay any license fee levied when due.
4. Failure to comply with any of the requirements imposed by this code.
5. Violation of any city ordinance or state or federal statute concerning pornographic or harmful materials or performances at the licensed premises.
6. Conduct or acts of the licensee or employees, or any act permitted by them on the premises where such business is conducted, which render the premises a public nuisance or menace to the health, peace, safety or general welfare of the city.
7. A violation of city ordinance or federal or state statute relating to the business or activity which is licensed and resulting from the conduct of such business activity.

8. For any other good cause shown.

B. ~~Provisions Specific To Beer Licenses And Sexually Oriented Business And Employee Licenses:~~
Additional Provisions Based on Specific Licenses:

1. Chapter 2, "Alcoholic Beverage Control", of this title, contains additional criteria which may be cause for denial or revocation of a beer license by the business license official.

2. Chapter 4, "Sexually Oriented Businesses And Employees", of this title, contains additional criteria which may be cause for denial or revocation of a sexually oriented business or employee license by the business license official.

3. Chapter 8, "Soliciting", of this title, contains additional criteria which may be cause for denial or revocation of a soliciting license by the business license official.

4. Chapter 10, "Retail Tobacco Specialty Licenses", of this title, contains additional criteria which may be cause for denial or revocation of a retail tobacco specialty license by the business license official.

5. Chapter 12, "Massage Business License", of this title, contains additional criteria which may be cause for denial or revocation of a massage business license by the business license official.

C. Temporary Suspension: Under the direction of the chief of police, every peace officer is authorized to temporarily suspend and confiscate any license issued under this chapter for any violation of this chapter or of the alcoholic beverage control act. Such temporary suspension shall be reported in writing to the business license official within seventy two (72) hours, together with a statement of the reasons thereof. This report, along with the license, shall be delivered to the business license official who shall then take action with respect to the revocation of such license, or the restoration thereof. (Ord. 2009-15, 11-24-2009)

4-1-8: APPEAL OF BUSINESS LICENSE OFFICIAL'S DECISION:

A. Written Appeal: Aggrieved applicants may appeal the decision of the business license official within ten (10) days of receipt or delivery of said decision. Appeals shall be filed by a written statement submitted to the city recorder detailing the grounds upon which the aggrieved applicant is appealing the business license official's decision. Upon receipt of such an appeal, it shall be scheduled for a hearing before the designated hearing officer within twenty (20) days, unless such time is extended for good cause.

B. Hearing Required: The hearing officer shall afford the appellant an opportunity, in a hearing, to show cause as to why the license should not be denied or revoked.

1. Notice: The date, time and place of the hearing shall be fixed by the city recorder and personal service of the appellant for the notice thereof shall be attempted. The city recorder must make reasonable steps to ensure the appellant gets actual notice. The notice shall indicate the purpose of the hearing and the action contemplated.

2. Procedure: At the hearing, the appellant shall have the right to appear personally or by counsel, to cross examine witnesses, and to produce evidence and witnesses on his behalf.

3. Burden Of Proof: The appellant has the burden of proof.

4. Standard Of Review: Legislative decisions shall be valid if "reasonably debatable" and not illegal. Administrative or quasi-judicial decisions shall be valid if supported by "substantial evidence" and not illegal.

5. Final Decision On Appeal And Notice Of Action Taken: After such hearing, the hearing officer will have seven (7) business days, unless extended for good cause, to issue written "findings, conclusions and recommendation" to the city council, which will also be provided to the appellant. After due deliberation upon the hearing officer's findings, conclusions and recommendation, which may (at the council's discretion) include taking additional evidence, the city council shall render a final decision on the appeal by adopting the hearing officer's findings, conclusions and recommendation, or taking some other action. The city recorder will notify the appellant in writing of final decision reached by the council. (Ord. 2012-05, 6-26-2012, eff. 7-1-2012)

4-1-9: FEE FOR LICENSE:

A. Administration Fee Levied: For the purpose of regulating costs to the city and to regulate businesses for compliance to the land use, building and police codes, there is levied upon every company or person engaging in business in the city, an administrative base fee, unless covered under exemptions, as follows:

1. The base fee shall be levied upon every new business for the first year.
2. In the event that a business is sold or transferred to another person, a new license and base fee shall be required.
3. For each calendar year thereafter, an administrative annual renewal fee shall be levied on every licensed business. (Ord. 2012-08, 9-28-2012)

B. Disproportionate Service Fee Levied:

1. An additional regulatory fee shall be assessed to any business that requires an enhanced level of service or creates a disproportionate cost to the city.

C. Discounts Or Exemptions Granted Provisionally; Disallowance And Collection:

1. Any discount or exemption to the full payment of licensing fees authorized under this title is granted conditioned upon the licensee's initial and continued compliance with the provisions of such discount or exemption. If the discount or exemption was improperly granted in reliance upon false, inaccurate or misleading information provided by the licensee, or if the licensee has become otherwise unqualified to receive such discount or exemption during the licensing year, the business license official is authorized and directed to:

- a. Determine the discounted portion of the business license fee that was improperly granted or for which the licensee is unqualified;
- b. Notify the licensee by first class mail, postage prepaid, that the discount or exemption has been disallowed and the reasons therefor; and
- c. Proceed to collect the amount representing the disallowed discount or exemption.

2. The amount of such discount shall be considered to be delinquent if not paid within sixty (60) days after notification that the discount or exemption has been disallowed, or before renewal of the license, whichever occurs first. Failure to make payment for the full amount of the disallowed discount or exemption shall be grounds for revocation of the license.

3. The business license official's determination is subject to appeal pursuant to the provisions of this chapter.

D. Enumerated: The fees required by this title are set forth in the consolidated fee schedule adopted by the city council.

E. Exemptions:

1. Insurance Companies: Insurance companies shall obtain a license according to the provisions of this chapter but shall not pay a fee, pursuant to provisions of Utah code title 31A, chapter 9, as amended.

2. Nonprofit Organizations; Tax Exempt: No license fee shall be imposed under this chapter upon any person engaged in business solely for religious, charitable or other strictly nonprofit purposes if that person's activities are tax exempt under the laws of the United States and state of Utah; nor shall any license fee be imposed on any person engaged in a business specifically exempted from municipal taxation and fees by the laws of the United States or state of Utah. All such nonprofit organizations and organizations claiming to be tax exempt should fill out a no fee business license application form and submit a copy of said business tax exempt number, which will be placed on file with the no fee application.

F. Fee Additional To All Other Fees: The license fee imposed by this chapter shall be in addition to any and all other permits, taxes or licenses imposed by any other provisions of the ordinances of the city.

G. Declared Debt: Any license fee due and unpaid under this chapter and all penalties therein shall constitute a debt to the city and may be collected by court proceedings in the same manner as any other debt in like amount. This remedy shall be in addition to all other existing remedies. (Ord. 2009-15, 11-24-2009)

4-1-10: LICENSE PERIOD:

A. Twelve Months: Except as set forth in subsection C of this section, all licenses shall be valid for a period of twelve (12) months from the date of issuance, and must be renewed on an annual basis to remain valid. Consumer Fireworks Sales, Mobile Food Vendor Licenses and Temporary or Seasonal Merchants are non-renewable. Annual renewal fees must be paid in full to the city not more than forty five (45) days after the first day of the twelfth month or the license is deemed expired.

B. Renewal: At the time of annual renewal, an inspection may occur to ensure compliance with the ordinances of the city. If any changes have been made to the business, a new license may be required. (Ord. 2012-08, 9-28-2012)

C. Temporary, or Seasonal Merchant Or Mobile Food Vendor License: A temporary or seasonal merchant's license or mobile food vendor's license shall be valid for a period of one hundred eighty (180) consecutive days. (Ord. 2014-14, 6-10-2014)

4-1-11: DELINQUENT DATE AND LATE FEE:

A. Due Date And Late Fee: To maintain a valid business license, all licensing fees that are imposed by this chapter (except the initial license fee for a new business, out of city contracted services, consumer fireworks, temporary and seasonal merchant licenses, or mobile food vendor's licenses) shall be remitted to the city not more than forty five (45) days after the expiration date of the license. In the event the fee is not paid within the forty five (45) days, a late fee shall be imposed and shall become a part of the license fee levied by this chapter.

B. Final Notice: A final notice shall be sent to all licensees whose annual license fee remains unpaid one month after expiration. This notice shall state that unless the license fee is paid within the forty five (45) day renewal period a late fee shall be imposed and legal action may be initiated by the city for engaging in business without a valid business license. The notice shall also set forth the amount of the penalty fee. Should it be necessary to take this matter to court, the business shall become responsible to reimburse the city for all attorney fees, court costs and any other expenses incurred by the city to clear up the account.

C. Engaging Without License: Should any person be found in the act of engaging in business without a license, the late fee specified by the consolidated fee schedule shall be added as a civil penalty to the base fee upon required application.

D. Failure To Renew: For purposes under this section, new business licenses will not be issued to applicants who have an outstanding account balance. (Ord. 2012-08, 9-28-2012)

4-1-12: RULES AND REGULATIONS OF LICENSE AND LICENSEE:

A. Change In Business Location Or Name: In the event of a change in business name an amended license shall be required. The processing fee set forth in the consolidated fee schedule shall be required. In the event of a change in business location, a new license may be required.

B. Nontransferable: Licenses issued under this chapter shall not be transferable; in the event that a license is revoked, suspended, or otherwise invalidated under the provisions of this title, the fee paid by the licensee to the city shall be forfeited.

C. Duplicate License; Fee: The business license official shall require the fee specified by the consolidated fee schedule for each duplicate license issued to replace any license issued under the provisions of this chapter when the same has been lost or destroyed.

D. Refund: No portion of a license fee shall be refunded for any reason after the license has been issued.

E. Display Required: It is the duty of every licensee to keep this license displayed and exhibited while said business is current and valid. Every licensee not having a fixed place of business shall carry such license with him at all times while engaging in business for which the license is issued and shall produce said license for inspection when requested to do so by any person. The licensee shall not allow any license, special permit or insignia to remain displayed or used after the period for which it was issued has expired; or when it has been suspended or revoked, or for any other reason becomes ineffective. The licensee shall not loan, sell, give or assign to any other person, or allow any other person to use or

display, or to destroy, damage or remove, or to have in his possession, except as authorized by the business license official, any license or insignia which has been issued to said licensee. (Ord. 2009-15, 11-24-2009)

4-1-13: INSPECTIONS OF PREMISES:

A. Every licensee shall allow inspection of the licensed premises by any peace officer or other authorized city official during regular business hours. Further, it is unlawful for any door or other means of ingress or egress for the licensed premises to be locked or to prevent access by any peace officer or other authorized city official while the premises are occupied or open to the public. In addition to any other civil or criminal penalties associated with violations of this section, such violations shall also constitute grounds for revocation of any license issued under this chapter.

B. The business license official, all police officers and all other city officials having duties to perform regarding licenses and businesses shall be designated license inspectors and shall have and exercise the following powers and duties:

1. To enter free of charge at any reasonable time, any place of business and to demand the exhibition of said business license for current term from any person engaged or employed in the transaction of such business.
2. To examine all places of business where a license is required and to determine that at such place of business, no business other than the business described in and covered by the license is transacted.
3. To report to the business license official all persons doing business without a proper and valid license for such business. (Ord. 2008-04, 7-22-2008)

4-1-14: FALSE INFORMATION PROHIBITED:

It is unlawful for any person to knowingly submit information which is false. (Ord. 2008-04, 7-22-2008)

4-1-15: PENALTY:

In addition to any late fees or civil penalties, any person who violates any provision of this chapter shall be guilty of a class B misdemeanor which is punishable as set forth in section 1-4-1 of this code. Each separate day a person violates any provision of this chapter shall be a separate violation. (Ord. 2012-08, 9-28-2012)

CHAPTER 5
CONSUMER FIREWORKS SALES

SECTION:

- 4-5-1: Applicability
- 4-5-2: License Required
- 4-5-3: Definitions
- 4-5-4: Enforcement
- 4-5-5: Application For License
- 4-5-6: Class C Fireworks
- 4-5-7: Public Displays
- 4-5-8: Rules And Regulations
- 4-5-9: Unlawful Acts
- 4-5-10: Excluded Businesses
- 4-5-11: Penalty

4-5-1: APPLICABILITY:

In addition to all rules and regulations set forth in chapter 1 of this title, the regulations contained in this chapter will apply to fireworks stand licenses. (Ord. 2008-04, 7-22-2008)

4-5-2: LICENSE REQUIRED:

It shall be unlawful for any person to engage in the business of selling consumer (class C, 1.4G) fireworks within the city without first obtaining the license required by this title. (Ord. 2008-04, 7-22-2008)

4-5-3: DEFINITIONS:

In addition to the definitions set forth in other sections of this code, the following words and phrases used in this chapter shall have the meanings herein prescribed:

COMBINATION FIREWORKS DEVICE: Any device containing combinations of two (2) or more of the effects described in the definition of "ground or handheld sparkling device" or "ground audible device", as defined in this section.

FIREWORK: Any composition or device manufactured or used for the purpose of producing a visible or audible effect by combustion, deflagration or detonation, but does not include model rockets, toy pistol

caps, emergency signal flares, snakes or flow worms, party poppers, wire sparklers under thirty six inches (36") in length, matches or class A and B explosives.

GROUND AUDIBLE DEVICE: Any paper or cardboard tube containing not more than fifty milligrams (50 mg) of pyrotechnic material that travels along the ground (chaser) upon ignition and often produces a whistling and/or popping effect.

GROUND OR HANDHELD SPARKLING DEVICE: A. Any cylindrical tube (cylindrical fountain) not exceeding three-fourths inch (3/4") inside diameter and containing not more than seventy five grams (75 g) of pyrotechnic composition which produces a shower of color and sparks upon ignition and may whistle or pop;

B. Any cardboard or heavy paper cone (cone fountain) containing up to fifty grams (50 g) of pyrotechnic composition which produces a shower of color and sparks upon ignition and may whistle or pop;

C. Any cylindrical tube (illuminating torch) containing up to one hundred grams (100 g) of pyrotechnic composition which produces colored fire upon ignition;

D. Any pyrotechnic device (wheel) capable of being attached to a post or tree containing up to six (6) (driver) units or tubes not exceeding one-half inch (1/2") in inside diameter that each contain not more than sixty grams (60 g) of pyrotechnic composition per driver unit which revolves upon ignition producing a shower of color and sparks and sometimes a whistling effect;

E. Any device similar in design and effect to a "wheel" capable of being placed on the ground (ground spinner) and ignited; and

F. Any narrow paper fuseless tube (flitter sparkler) filled with pyrotechnic composition that produces color and sparks when the popper at one end of the tube is ignited.

TRICK NOISEMAKER: A. Any tube or sphere containing pyrotechnic composition that upon ignition produces white or colored smoke (smoke device) as its primary effect; and

B. Any device that produces a small report intended to surprise the user, including:

1. A "booby trap" which is a small tube with a string, protruding from both ends that ignites the friction sensitive composition in the tube when the string is pulled;

2. A "snapper" which is a small paper wrapped device containing a minute quantity of explosive composition coated on bits of sand which explodes producing a small report;

3. A "trick match" which is a kitchen or book match coated with a small quantity of explosive or pyrotechnic composition that produces a small shower of sparks when ignited;

4. A "cigarette load" which is a small wooden peg coated with a small quantity of explosive composition that produces a small report when the cigarette is ignited; and

5. An "auto burglar alarm" which is a tube which contains pyrotechnic composition that produces a loud whistle and smoke when ignited. A small quantity of explosive, not exceeding fifty milligrams (50 mg), may also be used to produce a small report. A squib is used to ignite the device. (Ord. 2008-04, 7-22-2008)

4-5-4: ENFORCEMENT:

A. Authority: Every county or municipal officer charged with the enforcement of state and municipal laws, including all fire enforcement officials, are charged with the responsibility to enforce this chapter.

B. Seizure And Destruction: Fireworks sold or offered for sale in violation of this chapter may be seized and destroyed and any license of the person selling or offering fireworks for sale may be revoked. (Ord. 2008-04, 7-22-2008)

4-5-5: APPLICATION FOR LICENSE:

All applications for a consumer fireworks sales license shall be made in writing upon the form provided by the city and shall show the information required by chapter 1 of this title. The following shall also be provided:

A. Fee-~~Cleaning Deposit~~: The license fee ~~and cleaning deposit~~ specified by the consolidated fee schedule. ~~The deposit may be refunded upon site cleaning to the satisfaction of the city.~~

B. Location: Set forth the proposed location of the temporary stand or indoor sales location.

C. Insurance Certificates: Include for delivery to the city recorder, insurance certificates evidencing public liability coverage in favor of the applicant in the amount as established by the consolidated fee schedule; and property damage coverage in favor of the applicant in the amount as established by the consolidated fee schedule. Said insurance certificate shall include a minimum of ~~one~~ three million dollars (\$~~1~~3,000,000.00) product liability coverage.

D. Agreement To Comply: Include a statement that the licensee agrees to comply strictly with the terms of any license granted and to furnish any additional information upon request.

E. Sales Tax Permit: Include a temporary sales tax permit.

F. Written Permission From Property Owner: A copy of a valid lease or written permission from the property owner allowing the temporary or seasonal merchant or mobile food vendor to conduct business on the property.

G. Access To Restroom Facility: Written permission granting use of an existing restroom facility on or nearby the property within three hundred feet (300') of the business location, which shall be available during all hours of operation.

H. Site Plan: A site plan, drawn to scale, showing the property and its existing features (i.e., buildings, parking stalls, drive aisles, sidewalks, fire hydrants); the exact location of the vendor in relation to buildings, sidewalks, roadways, driveways, fire hydrants and other important features on the property; all components of the business with sizes/dimensions (i.e., temporary structure, storage bin, trash receptacle, required parking stalls); and photographs and/or illustrations showing all components of the business (i.e., temporary structure, storage bin, trash receptacle, signage). The site plan and photographs/illustrations shall include all information necessary to show compliance with the applicable zoning requirements set forth in title 11 of this code.

I. Electrical Plan: If power is required for the business, an electrical plan showing the power source, how it is connected to the temporary structure, how it is protected from the elements, wire size and location. If it is a new power source, an electrical permit must be obtained from the city. (Ord. 2009-15, 11-24-2009)

4-5-6: CLASS C FIREWORKS:

A. Hazard Not Created: No amount of retail storage or retail sales of class C fireworks shall, by its presence, create a distinct hazard to the life, safety of the customer, employee or property.

B. Indoor Sales: Properly licensed, retail class C fireworks sales may be conducted indoors inside permanent structures. These structures must be a nonmovable building, securely attached to a foundation, housing a business licensed to sell merchandise in addition to fireworks. In all retail sales locations in permanent structures, the area where fireworks are displayed or stored shall be at least fifty feet (50') from any flammable liquid or gas, or other highly combustible material. Fireworks shall not be stored (including stock for sale) near exit doorways, stairways or in locations that would impede egress.

C. Temporary Stands And Trailers: Properly licensed retail, class C fireworks sales may be conducted from a temporary stand or trailer which is a nonpermanent structure used exclusively for the sale of fireworks. Such sales must be subject to the following requirements:

1. Exit Doors: Each stand or trailer shall have a minimum of two (2) approved exit doors which swing out at opposite ends of the stand. Door locking devices, if any, shall be easily released from the inside without special knowledge, key or effort.

2. Aisle: Each stand or trailer shall have a minimum three foot (3') wide unobstructed aisle, running the length of the stand or trailer, inside and behind the counter.

3. Prevention Of Customer Touching Or Handling: The pass-through openings for sales of fireworks in stands or trailers shall be arranged to permit the customer to view the merchandise for sale but prevent the touching or handling of nonprepackaged fireworks by the customer.

4. Zoning: Temporary stands or trailers for the sale of fireworks shall be located in properly zoned areas, at least twenty five feet (25') from other fireworks stands or trailers, LPG, flammable liquid or gas storage and dispensing units.

5. Locking Devices: If the stand or trailer is used for the overnight storage of fireworks, it shall be equipped with suitable locking devices to prevent unauthorized entry.

6. Illumination Or Heating: Stands or trailers shall not be illuminated or heated by any device requiring an open flame or exposed heating elements. All heaters and lighting devices shall be approved by the authority having jurisdiction.

7. Entrance By General Public: The general public shall not be allowed to enter a temporary stand or trailer.

8. Location And Removal Of Stand: Temporary stands and trailers shall be located on site no earlier than fourteen (14) days before the first date of authorized sale, and shall be removed no later than five (5) days after the final date of authorized sale.

~~9. Deposit Or Bond: Prior to the issuance of a license, each licensee for a temporary stand or trailer shall file with the business license official a cash deposit, certificate of deposit or surety bond made payable to the city, in the amount specified by the consolidated fee schedule to assure compliance with the provisions of this section, including, but not limited to, the removal of the stand and the cleaning of the site. In the event the licensee does not comply or remove the stand or clean the site, the city may do so, or cause the same to be done by other persons and the reasonable cost shall be a charge against the licensee and his deposit or surety bond. (Ord. 2009-15, 11-24-2009)~~

4-5-7: PUBLIC DISPLAYS:

A. Permit Required: The city may, upon application in writing, upon the posting of a suitable bond, grant a permit for the public display of fireworks by religious, fraternal or civic organizations, fair associations, amusement parks or other organizations. The city council is authorized to grant such permission by resolution when such display is handled by a competent operator, who shall be approved by the chief of police. The chief of police may consult with the fire marshal in making his or her decision. Such display shall be of such a character and so located, discharged or fired as in the opinion of the chief of police and the fire marshal, after proper inspection, shall not be hazardous to property or endanger any person or persons. After such permit shall have been granted, sales, possession, use and distribution of fireworks for such display shall be lawful for that purpose only.

B. Application For Permit: All such applications for permits shall set forth the date, the hour and place of making such display and the place of storing fireworks prior to the display; and further, the name of the person making the display; and the name of the person in charge of the igniting, firing, setting off, exploding or causing to be exploded such fireworks. The location of the storage place shall be subject to the approval of the chief of police, who may consult with the fire marshal. No permit granted hereunder shall be transferable. (Ord. 2008-04, 7-22-2008)

C. ~~Bond Or~~ Liability Insurance: Any application for a permit as herein provided shall be accompanied by a certificate of insurance naming Clearfield City as an additional insured. Such insurance shall be in a sum not less than \$3,000,000 per occurrence and aggregate for bodily injury, property damage, personal & advertising injury and products & completed operations liability. No city officer or licensing agent or other representative of the city shall in any event issue any permit hereinabove referred to until such certificate of insurance has been furnished and passed upon by the city attorney or designee as to form and sufficiency.

~~Any application for permit as herein provided shall be accompanied by a certificate of insurance insuring the licensee and naming the city as an additional insured, conditioned for the payment of all damages which may be caused either to a person or to property by reason of the display so licensed and arising from any acts of the licensee, his agents or employees. Such insurance shall be in a sum not less than one hundred thousand dollars (\$100,000.00) per person and three hundred thousand dollars (\$300,000.00) per occurrence for bodily injury, and fifty thousand dollars (\$50,000.00) per person and one hundred thousand dollars (\$100,000.00) per occurrence for property damage and no city officer or licensing agent or other representative of the city shall in any event issue any permit hereinabove referred to until such certificate of insurance has been furnished and passed upon by the city manager and the city attorney as to form and sufficiency. (Ord. 2009-15, 11-24-2009)~~

4-5-8: RULES AND REGULATIONS:

All retail sales of consumer fireworks authorized by this chapter shall be subject to the following rules and regulations:

A. Authority: The city council may adopt rules establishing minimum safety standards, reasonable under the circumstances, for the retail storage, retail handling and retail sale of common fireworks.

B. ~~Dates Authorized Sign Posted:~~

~~1. Sales: Fireworks may be sold on or between June 20 and July 25; or between December 20 and January 2; and fifteen (15) days before and on the Chinese New Year.~~

~~2. Discharge: Fireworks may be discharged three (3) days prior to, on the day of and three (3) days following July 4, July 24, January 1 and the Chinese New Year.~~

~~3. Sign Posted:~~ A sign, clearly visible to the general public, shall be posted at all fireworks sales locations indicating the legal dates for discharge of fireworks.

C. Supervision: All fireworks retail sales locations shall be under the direct supervision of a responsible person who is sixteen (16) years of age or older. A salesperson shall remain at the sales location at all times, unless suitable locking devices are provided to prevent the unauthorized access to the merchandise by others, or the merchandise shall be removed.

D. Sales To Minors: Fireworks shall not be sold to any person under the age of sixteen (16) years, unless accompanied by an adult.

E. Building Construction: Buildings and temporary stands or trailers for the retail sales of fireworks shall be constructed in compliance with local regulations or if none, in accordance with nationally recognized good practice.

F. Combustible Materials Cleared: All retail sales locations shall be kept clear of dry grass or other combustible material for a distance of at least twenty five feet (25') in all directions.

G. Storage Within Residential Areas: Storage of fireworks for sale shall not be located in residential areas.

H. Smoking: Smoking shall not be permitted within fifty feet (50') of any fireworks, either on display for retail sale or being stored. "Smoking Prohibited Within 50 Feet" (or similar wording) signs shall be conspicuously posted at all sales and storage locations.

I. Fire Extinguisher: All retail sales locations shall be equipped with an approved, portable fire extinguisher having a combined rating of at least 2A:10BC, or as required by the authority having jurisdiction. (Ord. 2008-04, 7-22-2008)

4-5-9: UNLAWFUL ACTS:

A. Sales, Possession Or Discharge Of Specific Fireworks: It is unlawful for any person to sell or offer for retail sale, or to possess or to discharge any fireworks in the city other than those defined as "ground or

handheld sparkling device", "ground audible device", "combination fireworks device" or "trick noisemaker", as defined in section 4-5-3 of this chapter.

B. Sparklers Within Specific Distance: It shall be unlawful for any person to ignite, explode, project or otherwise fire or use, or permit the ignition, explosion or projection of any sparkler upon, over or onto the property of another.

C. Possession Or Discharge Of Fireworks On Public Property: It is unlawful for any person to possess or to discharge any fireworks on any public property. Public property includes, but is not limited to, schools, city parks, the Clearfield City building, any other property owned by the city or any other public entity. This subsection shall not apply to events provided by or authorized by Clearfield City. (Ord. 2008-04, 7-22-2008)

4-5-10: EXCLUDED BUSINESSES:

This chapter does not apply to the product inventories of fireworks manufacturers, importers, distributors or wholesalers designated for shipment directly out of the city. Nothing in this chapter shall supersede the provisions of section 23-13-7, Utah Code Annotated. (Ord. 2008-04, 7-22-2008)

4-5-11: PENALTY:

Any person violating any of the provisions of this chapter shall be deemed guilty of a class B misdemeanor and subject to penalty as provided in section 1-4-1 of this code. (Ord. 2008-04, 7-22-2008)

CHAPTER 7 RENTAL DWELLINGS

SECTION:

4-7-1: Applicability

4-7-2: License Required

4-7-3: Application For License

4-7-4: Review And Approval Procedures

4-7-5: Rules And Regulations

4-7-6: Inspections

4-7-7: Fees

~~4-7-8: Good Landlord Incentive Program~~

4-7-~~9~~8: Penalty

4-7-1: APPLICABILITY:

In addition to all rules and regulations set forth in chapter 1 of this title, the regulations contained in this chapter shall apply to rental dwelling licenses. (Ord. 2009-15, 11-24-2009)

4-7-2: LICENSE REQUIRED:

It shall be unlawful for any person, as owner, lessee or agent thereof, to keep, conduct, operate or maintain any rental dwelling within the city without first obtaining the license required by this chapter. (Ord. 2009-15, 11-24-2009)

4-7-3: APPLICATION FOR LICENSE:

A. All applications for a rental dwelling license shall be made in writing upon the forms provided by the city. In addition to the information required by chapter 1 of this title, an application for a rental dwelling license shall also show:

1. A record, including the address, of each rental dwelling unit owned by the applicant.
2. A valid e-mail address for the owner ~~or and~~ property manager of each rental dwelling ~~unit license~~.
3. A signed statement certifying the rental dwelling unit's compliance with applicable safety and building codes, zoning ordinances, property maintenance regulations, fit premises regulations, property maintenance code, housing codes, health codes etc. and the premises must be kept free of any public nuisance as defined by city ordinance or state law.

~~—B. Applicants who desire to participate in the city's good landlord program shall also complete and submit the good landlord program agreement, which shall be provided by the city. (Ord. 2009-15, 11-24-2009)~~

4-7-4: REVIEW AND APPROVAL PROCEDURES:

The process for review and approval of an application for a rental dwelling license shall be in accordance with chapter 1 of this title. (Ord. 2009-15, 11-24-2009)

4-7-5: RULES AND REGULATIONS:

A. One License: Only one rental dwelling license shall be required for each person or entity owning rental dwelling units within the city.

B. Amendment To License: Any licensee who acquires or sells any rental dwelling unit within the city after licensure but before renewal shall amend the license within thirty (30) days of acquisition or sale of the rental dwelling unit, ~~and shall pay the fees required by this title. (Ord. 2009-15, 11-24-2009)~~

4-7-6: INSPECTIONS:

A. The business license official or their designee shall be permitted to make an inspection of any rental dwelling unit to enforce any of this title or any other applicable statute or ordinance, and may enter the building or may enter upon the premises during regular business hours; or, if there are no regular business hours, the business license official or their designee shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If the property owner or other responsible person refuses to allow an inspection, the business license official or their designee may obtain and execute a search warrant.

B. No owner, occupant, or any other person having charge, care, or control of any building or premises shall fail or neglect, after proper request is made as herein provided, to properly permit entry therein by the business license official or their designee for the purpose of inspection and examination to ensure compliance with this title. (Ord. 2009-15, 11-24-2009)

4-7-7: FEES:

A. The fees for a rental dwelling license shall be in accordance with the city's current consolidated fee schedule as approved by the city council.

~~—B. A disproportionate service fee shall be paid for each rental dwelling unit in accordance with the current consolidated fee schedule. A disproportionate service fee shall not be charged for an owner occupied unit in a multi-unit building.~~

~~—C. Members of the city's good landlord incentive program shall be eligible for a discount on the disproportionate service fee. (Ord. 2009-15, 11-24-2009)~~

4-7-~~98~~: PENALTY:

Any person violating any of the provisions of this chapter shall be guilty of a class B misdemeanor and subject to penalty as provided in section 1-4-1 of this code. Each separate day a person violates any provision of this chapter shall be a separate violation. (Ord. 2009-15, 11-24-2009)

CHAPTER 10 RETAIL TOBACCO SPECIALTY LICENSES

SECTION:

- 4-10-1: Applicability
- 4-10-2: License Required
- 4-10-3: Definitions
- 4-10-4: Review And Approval Procedures
- 4-10-5: Rules And Regulations
- 4-10-6: Denial Or Revocation
- 4-10-7: Penalty

4-10-1: APPLICABILITY:

In addition to all rules and regulations set forth in chapter 1 of this title, the regulations contained in this chapter shall apply to retail tobacco specialty businesses. (Ord. 2012-04, 6-12-2012, eff. 7-1-2012)

4-10-2: LICENSE REQUIRED:

It is unlawful for any person to engage in the business of conducting a retail tobacco specialty business within the city without first obtaining the licenses required by this chapter and chapter 1 of this title.

~~Except as provided in subsection A of this section, and beginning July 1, 2012, a business entity that conducts a retail tobacco specialty business within the city shall be licensed.~~

A. Pursuant to Utah Code Annotated section 10-8-41.6 (as amended), a retail tobacco specialty business that has a business license and is operating lawfully in a municipality on or before May 8, 2012, is not subject to additional zoning requirements exclusively applicable to retail tobacco specialty businesses as set forth in section 11-13-30 of this code.

B. A retail tobacco specialty business may maintain an exemption under subsection A of this section only if:

1. The business license is renewed continuously without relapse or permanent revocation;
2. The retail tobacco specialty license is not closed for business or otherwise suspends the sale of tobacco products for more than sixty (60) consecutive days;
3. The retail tobacco specialty business does not substantially change the business premises or its business operation; and
4. The retail tobacco specialty business maintains the right to operate under the terms of other applicable laws, including zoning ordinances, building codes, and the original business license issued prior to May 8, 2012. (Ord. 2012-04, 6-12-2012, eff. 7-1-2012)

4-10-3: DEFINITIONS:

In addition to the definitions set forth in other sections of this code, the following words and phrases used in this chapter shall have the meanings herein prescribed:

COMMUNITY LOCATION: A public or private kindergarten, elementary, middle, junior high, or high school, a licensed childcare facility or preschool, a trade or technical school, a church, a public library, a public playground, a public park, a youth center or other space used primarily for youth oriented activities, a public recreational facility, or a public arcade, or a homeless shelter.

RETAIL TOBACCO SPECIALTY BUSINESS: A commercial establishment in which:

- A. Sales of tobacco products, electronic cigarette products, and nicotine products account for more than 35% of the total quarterly gross receipts for the establishment;
- B. 20% or more of the public retail floor space is allocated to the offer, display, or storage of tobacco products, electronic cigarette products, or nicotine products;
- C. 20% or more of the total shelf space is allocated to the offer, display, or storage of tobacco products, electronic cigarette products, or nicotine products;
- D. If the commercial establishment holds itself out as a retail tobacco specialty business and causes a reasonable person to believe the commercial establishment is a retail tobacco specialty business or the retail space features a self-service display for tobacco products, electronic cigarette products, or nicotine products.

~~the sale of tobacco products accounts for more than thirty five percent (35%) of the total annual gross receipts for the establishment, where food and beverage products (excluding gasoline sales) is less than forty five percent (45%) of the total annual gross receipts for the establishment, and the establishment is not licensed as a pharmacy under Utah code, title 58, chapter 17b, pharmacy practice act.~~

TOBACCO PARAPHERNALIA: Any equipment, product, or material of any kind which is used, intended to use, or designed for use to package, repack, store, contain, conceal, ingest, inhale, or otherwise introduce a cigar, cigarette, or tobacco in any form into the human body, including:

- A. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
- B. Water pipes;
- C. Carburetion tubes and devices;
- D. Smoking and carburetion masks;
- E. Roach clips: meaning objects used to hold burning material, such as a cigarette, that has become too small or too short to be held in the hand;
- F. Chamber pipes;
- G. Carburetor pipes;

- H. Electric pipes;
- I. Air driven pipes;
- J. Chillums;
- K. Bongs; and
- L. Ice pipes or chillers, but not including matches or lighters.

TOBACCO PRODUCT: Any cigar, cigarette, ~~or electronic cigarette as defined in Utah Code Annotated 76-10-101; or a tobacco product as defined in Utah Code Annotated 59-14-102, including: tobacco in any form including~~ chewing tobacco; or any substitute for a tobacco product, including flavoring or additives to tobacco, ~~; and tobacco paraphernalia as defined in Utah Code Annotated 76-10-104.1. (Ord. 2012-04, 6-12-2012, eff. 7-1-2012)~~

4-10-4: REVIEW AND APPROVAL PROCEDURES:

The process for review and approval of an application for a retail tobacco specialty business license shall be in accordance with chapter 1 of this title. The following shall also be provided:

- A. A site plan, drawn to scale, shall include all information necessary to show compliance with the applicable zoning requirements set forth in title 11 of this code, including the following:
 - 1. Location of the proposed business that includes adjacent properties within one thousand five hundred feet (1,500') of business.
 - 2. All adjacent properties shall be labeled with the existing business name and/or use.
 - 3. If a community location, agricultural or residential use, or other retail tobacco specialty businesses are located within one thousand feet (1,000') or less, then dimensions on the site plan shall be provided.
 - a. The measurements will be taken from the nearest entrance of the retail tobacco specialty business to the nearest property boundary of the community location, agricultural or residential use, or other retail tobacco specialty business, without regard to intervening structures or zoning districts. (Ord. 2012-04, 6-12-2012, eff. 7-1-2012)

- ~~4. A valid permit for a retail tobacco specialty business issued by the local health department.~~
- ~~5. A valid license issued by the State Tax Commission to sell either tobacco products or electronic cigarette products or nicotine products as defined in Utah Code Annotated 10-8-41.6.9 (as amended).~~

4-10-5: RULES AND REGULATIONS:

- A. Compliance With Zoning Regulations: Each retail tobacco specialty license shall comply with the applicable zoning requirements set forth in title 11 of this code.
- B. Providing Tobacco Products To Minors: It is unlawful for any person to knowingly, intentionally, recklessly, or with criminal negligence provide any tobacco product to any person under ~~nineteen (19)~~

twenty-one (21) years of age. Any person who violates this subsection is guilty of a class C misdemeanor on the first offense, a class B misdemeanor on the second offense, and a class A misdemeanor on subsequent offenses.

C. Providing Tobacco Paraphernalia To Minors: It is unlawful for a person to, knowingly, intentionally, recklessly, or with criminal negligence provide any tobacco paraphernalia to any person under ~~nineteen (19)~~ twenty-one (21) years of age. Any person who violates this subsection is guilty of a class C misdemeanor on the first offense and a class B misdemeanor on subsequent offenses. (Ord. 2012-04, 6-12-2012, eff. 7-1-2012)

4-10-6: DENIAL OR REVOCATION:

In addition to the reasons set forth in chapter 1 of this title for denial or revocation of a license, the business license official may deny or revoke a retail tobacco specialty license:

A. If a licensee engages in a pattern of unlawful activity under Utah code, title 76, chapter ~~10,17~~ part ~~164~~, pattern of unlawful activity ~~act~~;

B. If a licensee violates the regulations restricting the sale and distribution of cigarettes and smokeless tobacco to protect children and adolescents issued by the United States food and drug administration, 21 CFR part 1140; or

C. Under other provisions of state law, county or city ordinance. (Ord. 2012-04, 6-12-2012, eff. 7-1-2012)

4-10-7: PENALTY:

Unless otherwise specified, any person violating any of the provisions of this chapter shall be guilty of a class B misdemeanor and subject to penalty as provided in section 1-4-1 of this code. Each separate day a person violates any provision of this chapter shall be a separate violation. (Ord. 2012-04, 6-12-2012, eff. 7-1-2012)

CHAPTER 12 MESSAGE BUSINESSES

SECTION:

Article I. General Provisions

4-12-1: Findings And Purpose

4-12-2: Administration And Enforcement

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4-12-4: Transfer Of License; Sale Of Massage Business

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4-12-~~7~~6: Application For Massage Establishment, Sole Massage Therapist Establishment, Or Outcall Massage Service License

4-12-~~8~~7: Requirements For Massage Facilities

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Article III. Fees

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Article IV. Enforcement And Penalties

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- 4-12-~~2019~~: Cooperative Efforts With Law Enforcement
- 4-12-~~2020~~: Undertaking For The General Welfare
- 4-12-~~2021~~: Severability
- 4-12-~~2022~~: No Conflict With State Or Federal Law

ARTICLE I. GENERAL PROVISIONS

4-12-1: FINDINGS AND PURPOSE:

A. Massage professionals and businesses providing massage therapy promote public health and well-being with therapeutic practices that temper aches and pains, ease stress, reduce blood pressure, and provide other valuable health benefits.

B. In communities across the United States, illicit massage businesses are known venues for human trafficking. Traffickers in these venues commonly operate by opening establishments that are disguised as legitimate massage or bodywork businesses. In the process, they secure legally required licenses and licensure to conceal their actual activities: sex trafficking and/or forced labor. As a result, these human trafficking venues are blending in with and operating next to other legitimate businesses in urban business districts, suburban strip malls, and rural towns throughout the U.S.

C. The city does not conflate these illicit businesses with legitimate massage businesses and massage practitioners. This chapter seeks to exercise the city's authority to regulate both massage practitioners and massage businesses in such a way as to support and encourage legitimate massage practitioners and massage businesses, while discouraging illicit massage businesses and removing all illicit massage business from the city. (Ord. 2019-24, 9-10-2019)

4-12-2: ADMINISTRATION AND ENFORCEMENT:

This chapter shall be administered through the business license official for Clearfield city. Enforcement may include all available administrative, civil, and/or criminal remedies available pursuant to local, state, or federal laws. (Ord. 2019-24, 9-10-2019)

4-12-3: DEFINITIONS:

For the purposes of this chapter:

ADMINISTRATIVE HEARING OFFICER:	The person appointed by the city manager to preside and conduct a business license violation appeal hearing under this chapter. The hearing officer may be a department head, other than the supervisor of the business license official, or a non-city employed person with requisite skill and experience.
BUSINESS LICENSE OFFICIAL:	The business license official of Clearfield city, or any individual designated by the business license official to act on his or her behalf.

CITY:	Clearfield city.
CITY MESSAGE THERAPIST IDENTIFICATION BADGE:	That badge which is issued by the city to a licensed massage therapist that will provide massage services in a massage establishment.
COMPENSATION:	A payment, loan, advance, donation, contribution, deposit, forgiveness of debt, or gift of money or anything of value.
CONVICTED:	Having pled guilty or having received a verdict of guilty, including a verdict following a plea of nolo contendere or no contest to a crime, as well as entering into a plea held in abeyance or in a diversion, or any other similar type of plea agreement.
DEPARTMENT:	The city's licensing division.
DOPL:	The Utah Division of Occupational and Professional Licensing, which is located within the Department of Commerce and is legislatively charged to administer and enforce specific laws related to the licensing and regulations of certain occupations and professions, including massage.
INSPECTOR:	A department employee responsible for conducting inspections on behalf of the department.
LICENSED MESSAGE THERAPIST:	An individual who administers massage for compensation and holds a valid and active license to practice massage issued by DOPL, including those individuals that have a DOPL license as a massage apprentice.
MESSAGE:	Any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating the external soft pads of the body with the hands or with the aid of any apparatus or appliance.
MESSAGE BUSINESS:	Massage establishment, outcall massage service, and sole massage therapist establishment, collectively.
MESSAGE ESTABLISHMENT:	A fixed place of business where more than one individual administers massage for compensation, excluding those locations where massage is provided only on an outcall basis.
OUTCALL MESSAGE SERVICE:	Any business other than a massage establishment or sole massage therapist establishment that provides massage for compensation at a location designated by the client rather than on its premises.
OWNER:	Any individual, partnership, firm, association, corporation, or combination of individuals of whatever form or character with an ownership interest in a business that provides massage services.
SOLE MESSAGE THERAPIST ESTABLISHMENT:	A fixed place of business solely owned by a massage therapist, which individual is the only person who provides massage for compensation.
SOLE PRACTITIONER:	A licensed massage therapist who provides massage for compensation without any partners, associates, or employees, and absent any business relationship with a massage establishment. (Ord. 2019-24, 9-10-2019)

4-12-4: TRANSFER OF LICENSE; SALE OF MASSAGE BUSINESS:

A. No license issued by the city under this chapter shall be transferable under any circumstances, including but not limited to the sale of the massage business.

B. Upon the effective date of the sale of a massage business, the license for the massage business shall expire. If a licensee sells a massage business, the licensee shall promptly surrender the license to the business license official no later than the effective date of the sale. This obligation is not dependent on the business license official's requesting the surrender, but arises as a result of the sale of the massage business. If the licensee fails to surrender the license to the business license official as required by this subsection, the business license official may, after giving the licensee notice by mail or electronically of the proposed action and an opportunity to respond, establish that the license has expired and hence is not a valid license, and that it must be surrendered. (Ord. 2019-24, 9-10-2019)

~~4-12-5: SUMMARY CRIMINAL HISTORY INFORMATION:~~

~~The business license official may require the submission of local, state, and federal level summary criminal history information for licensing, and/or certification of massage businesses and massage practitioners, and for the suspension or revocation of licenses, and/or certification of massage businesses and massage practitioners, and may not disseminate the information to a private entity. The business license official may not accept a summary report that is greater than three (3) months old prior to submission, and may require a summary report to be updated at any given time. (Ord. 2019-24, 9-10-2019)~~

ARTICLE II. MASSAGE BUSINESS LICENSE

~~4-12-6-5:~~ MESSAGE BUSINESS LICENSE REQUIRED; EXEMPTIONS:

A. License Required: It shall be unlawful for any owner of a massage establishment, sole massage therapist establishment, or outcall massage service to operate that massage business at any location in the city without first obtaining a license for such massage business from the business license official. In the event that a business owner or operator disclaims that the business is a massage business, the business license official may hold a hearing to determine whether a license under this chapter is required.

B. Exemptions: The following businesses may provide massage services without obtaining a massage business license:

1. Businesses providing massage services performed solely by physicians, surgeons, chiropractors, osteopaths, nurses, or any physical therapists, who are duly licensed to practice their respective professions in the state of Utah and persons working directly under the supervision of or at the direction of such licensed persons, working at the same location as the licensed person, and administering massage services subject to review or oversight by the licensed person.

2. Businesses providing massage services performed solely by barbers or cosmetologists who are duly licensed under the laws of the state of Utah, while engaging in practices within the scope of their licenses, and limited to the massaging of the neck, face, scalp, hands, or feet of the clients.

3. Hospitals, nursing homes, mental health facilities, or any other health facilities duly licensed by the state of Utah, providing massage services performed solely by their employees acting within the scope of their employment. (Ord. 2019-24, 9-10-2019)

4. An individual performing massage services who holds a valid license, permit, certificate, or registration, for massage services issued by any other jurisdiction of the United States or by a foreign country; or holds a certification from a nationally recognized massage therapy organization if the nonresident individual is from a jurisdiction of the United States that does not regulate massage and is temporarily performing massage services in this state for a period that does not exceed 30 days for the purpose of:

a. presenting educational or clinical programs, lectures, seminars, or workshops;

b. providing massage services during an emergency as part of a disaster response team; or

c. consulting with a licensed individual regarding massage services.

4-12-~~76~~: APPLICATION FOR MASSAGE ESTABLISHMENT, SOLE MASSAGE THERAPIST ESTABLISHMENT, OR OUTCALL MESSAGE SERVICE LICENSE:

A. Application Requirements: To apply for a massage establishment, sole massage therapist establishment, or outcall massage service license, the owner shall:

1. File an application with the business license official upon a form provided by the business license official;

~~2. Provide a complete set of fingerprints in the manner required by the business license official from any person with an ownership interest in the massage business for the purpose of undergoing a criminal background check;~~

~~3.~~ Pay a non-refundable application fee, as set forth in the city's consolidated fee schedule; and

~~4.~~ License inspection of any massage facilities proposed to be operated under the license by all relevant city departments, including but not limited to the department of building inspection, the planning department, and the fire department.

B. Applicant Information: The application form shall require the applicant to provide, under penalty of perjury, the following information:

1. The name(s), address(es), and any other identifying information regarding the owner(s) as requested by the business license official;

2. A description of all services to be rendered by the massage business;

3. The address of any facilities proposed to be operated under a massage establishment or sole massage therapist establishment license, and a copy of the rental agreement or lease showing the names of the landlord and all of the tenants or lessees who are parties to the rental agreement; or, if the owner owns the premises, a copy of the deed and a disclosure of any other person or entity with a shared ownership interest in the premises;

4. The number of individuals to be employed by the massage business, and, except in the case of a sole massage therapist establishment, the names and licenses of any massage therapists who shall operate under that license;

5. All licenses, certificates, or licenses related to the practice of massage or the operation of a massage establishment or massage service, currently or formerly held by an owner, issued in Clearfield city or elsewhere, including any discipline imposed by the issuing authority and a statement whether the license holder is currently the subject of a disciplinary process;

6. All felony or misdemeanor convictions for each person with an ownership interest in the massage business;

7. A floor plan of the proposed massage establishment, indicating the location of all massage treatment rooms, massage tables, massage chairs, and employee areas;

8. A certificate of insurance against liability for workers compensation or proof of self-insurance in accordance with the provisions of the Utah Labor Code; and

9. Any additional information as required by the business license official.

C. Organizational Owners: If the owner of the massage establishment or outcall massage service is or includes a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation together with the names and residence addresses of each of the officers, directors, and each stockholder holding more than ten percent (10%) of the stock of the corporation. If the owner is or includes a partnership, the application shall set forth the name and the residence address of each of the partners, including limited partners. If one or more of the partners is a corporation, the provisions of this section pertaining to corporate applicants applies. The applicant shall provide the information required in subsections ~~A2~~, B1, B5, and B6 of this section for each officer, director, and stockholder holding more than ten percent (10%) of the stock of the corporation, or for each partner, including limited partners.

D. Proof Of DOPL Certification For Sole Practitioners: In addition to the information required under subsection B of this section, an applicant for a sole massage therapist establishment license shall provide proof that he or she holds a current, valid DOPL certificate.

E. Deadline For Submission Of Supporting Documentation: After reviewing a massage business license application, the business license official shall notify the applicant in writing that the application is complete and accepted for further review, or incomplete. If the business license official deems the application to be incomplete, the applicant shall supply the information or documentation that is required for the application to be deemed complete. The applicant shall have thirty (30) calendar days from the date that the business license official provides notification that the application is incomplete to provide all required information and/or documentation. If the applicant does not provide such information within thirty (30) calendar days, the application will be deemed abandoned and will not receive further consideration. (Ord. 2019-24, 9-10-2019)

4-12-~~8~~7 REQUIREMENTS FOR MASSAGE FACILITIES:

All proposed massage facilities must comply with the following requirements, and with any rules and regulations adopted by the business license official pursuant to section 4-12-2:

A. Toilet Rooms And Other Rooms: Toilet rooms shall be provided for clients in convenient locations.

1. Construction of rooms used for toilets, laundry, and mop sinks, as well as rooms used for tubs, wet tables, steam baths, saunas, and shower stalls, shall be made of waterproof, non-absorbent materials that are easily cleaned and shall be installed in accordance with the city's building regulations found in title 10, as well as all other applicable state or federal building regulations.

2. Plumbing fixtures in toilet rooms as well as rooms used for tubs, steam baths, and showers shall be installed in accordance with the International Plumbing Code, as adopted by the city in title 10, city's building regulations.

3. Urinals may be substituted for toilets after one toilet has been provided.

4. Doors to toilet rooms shall open inward.

B. Handwashing Facilities: Handwashing facilities shall be provided within or adjacent to the toilet rooms and shall be equipped with an adequate supply of hot and cold running water under pressure.

1. Handwashing facilities must provide liquid hand soap in a pump or a wall-mounted dispenser and sanitary wall mounted disposable paper towels.

2. Handwashing facilities shall be readily accessible to massage practitioners.

C. Light And Ventilation: All portions of the massage establishment shall be provided with adequate light by means of windows, skylights, or with an approved artificial light. Adequate ventilation shall be provided by means of windows or a mechanical operating ventilating system.

1. Toilet, dressing, and massage rooms shall be provided with at least one hundred eight (108) lux (ten (10) foot candles) of light.

2. All electrical equipment shall be installed in accordance with the requirements of the National Electric Code, as adopted by the city in title 10, city's building regulations. (Ord. 2019-24, 9-10-2019)

4-12-98: REFERRAL OF MESSAGE ESTABLISHMENT AND SOLE MESSAGE THERAPIST ESTABLISHMENT LICENSE APPLICATIONS TO OTHER DEPARTMENTS; POLICE DEPARTMENT NOTIFICATION:

A. Code Review: The business license official, within fourteen (14) calendar days of receiving an application for a license to operate a massage establishment or sole massage therapist establishment shall refer the application to the city department of building inspection and the city police, fire, and planning departments. Said departments shall inspect the facilities proposed to be operated as a massage establishment or a sole massage therapist establishment and shall make written findings to the business license official concerning compliance with codes that they administer.

B. Law Enforcement: The business license official shall notify the police department of all approved and denied massage business license applications. (Ord. 2019-24, 9-10-2019)

4-12-109: ISSUANCE OF MESSAGE ESTABLISHMENT, SOLE MESSAGE THERAPIST ESTABLISHMENT, OR OUTCALL MESSAGE SERVICE LICENSE:

A. Within sixty (60) calendar business days following receipt of a completed application for a massage business license, or, for applications subject to referral under section 4-12-~~98~~, within thirty (30) calendar days of receiving all written findings, whichever is later, the business license official shall either issue the license or mail a written statement of his or her reasons for denial thereof to the applicant. If the business license official takes neither action, the license shall be deemed issued.

B. No massage establishment, sole massage therapist establishment, or outcall massage service license shall be issued if the business license official finds:

1. The applicant has provided materially false information, documents, or testimony in support of the application or in any other matter before the business license official; or

2. The facilities as proposed by the applicant would not comply with all applicable laws including, but not limited to, the facilities requirements set forth in section 4-12-~~97~~, the city building, planning, housing, and fire codes, or any rule or regulation related to massage facilities adopted by the business license official pursuant to this chapter; or

3. Within thirty six (36) months prior to the application, the applicant has had any license or license of any kind suspended or revoked by the business license official; or

4. Prior to the date of application, the applicant has had any license, certificate, or license related to the practice of massage or operation of a massage establishment or massage service revoked; or

5. The applicant has been convicted of any of the following offenses, at any time prior to making application:

- a. Any offense involving the use of coercion, force, or violence upon another person; or
- b. Any misdemeanor sexual battery; or
- c. Any offense involving sexual misconduct with children; or
- d. Any offense involving pimping or pandering; or
- e. Any offense related to human trafficking; or
- f. Any offense requiring registration pursuant to title 77, chapter 41 of the Utah Code Annotated; or

6. Sanitation violations pursuant to section 4-12-~~11~~10A.

7. The business license official revoked permission to operate a massage business at the same location within the prior thirty six (36) months; or

8. The business license official finds that the premises or the massage business will be or is being managed, conducted, or maintained in such a manner as to endanger the health and safety of the employees or clients, or to coerce any employee to engage in illegal conduct; or

9. The applicant has not fully complied with the provisions of this chapter; or

10. The applicant has not demonstrated eligibility for a license under this chapter.

C. Right To Request For Reconsideration Of Denial By Business License Official: If an application for a massage establishment, sole practitioner massage establishment, or an outcall massage service permit is

denied, the applicant may make a request for reconsideration to the business license official within fourteen (14) calendar days of the date listed on the notice of denial by notifying the business license official in writing and explaining the ground or grounds for reconsideration. Within ten (10) calendar days of receipt of the request for reconsideration, the business license official shall review the records, and at the discretion of the business license official, may hold a hearing to consider the request for reconsideration, before issuing a final written decision.

D. Right To Appeal Business License Official's Final Written Decision: If an application for a massage establishment, sole massage therapist establishment, or an outcall massage service license is denied after a business license official's request for reconsideration pursuant to division C, the applicant may appeal the denial to the city manager within fourteen (14) calendar days of the date listed on the notice of denial by submitting a written notice of appeal to the city recorder. This appeal shall be a review of the written basis for appeal, any written response from the city, and the record. No testimony will be provided. The written appeal shall include the following:

1. A brief basis for appeal, no more than two (2) pages.
 - a. The format for the written appeal shall be twelve (12) point font, double-spaced, on standard sized (eight and a half by eleven inch (8.5" x 11")) paper, with one inch margins;
 2. A complete and accurate copy of all documents provided by the applicant to be considered during the business license official hearing; and
 3. A complete and accurate copy of the business license official's final written decision from the request for reconsideration.
- E. The city may or may not submit a written response within seven (7) calendar days to the "brief basis for appeal" under the length and formatting requirements set forth in division D1a.
- F. The city manager shall make a written final determination. The city manager shall make this final determination not less than seven (7) calendar days, but no more than fourteen (14) calendar days from the date of a timely made appeal.
- G. The failure of the city manager to provide a timely final determination as outlined above shall be considered an upholding of the business license official's final written decision. (Ord. 2019-24, 9-10-2019)

4-12-~~11~~10: OPERATING REQUIREMENTS:

Massage establishments, sole massage therapist establishments, and outcall massage services must comply with the following operating requirements to the extent applicable:

- A. Cleanliness And Hygiene: Massage facilities, including all appliances and apparatuses, shall be kept clean and operated in a sanitary condition.
1. Adequate and suitable space shall be provided for storage of clean linens, including, but not limited to, sheets, towels, and apparel.
 2. Clean sheets and towels shall be provided, laundered after each use, and stored in a sanitary manner.

3. No towels or sheets shall be laundered or dried on the premises in the absence of suitable laundry facilities.

4. Smooth, cleanable, and appropriately labeled receptacles for the storage of soiled linens and towels shall be provided.

5. Soiled refuse shall be appropriately bagged and disposed of.

6. Wet and dry heat rooms, shower compartments, and toilet rooms shall be thoroughly cleaned each business day.

7. Bathtubs shall be thoroughly cleaned and sanitized after each use.

8. The facility shall be free of vermin, including, but not limited to, cockroaches, mice, rats, and other pests that carry disease.

B. Changing Area: A room, enclosure, or designated area shall be provided where clients can change and store their clothes.

C. Employee Area: A room, enclosure, or designated area that is separate from the toilet, massage room(s), steam room, or other common areas shared by the clients shall be made available to employees at all times. The employee area(s) shall be furnished with individual lockers and adequate storage space for employees' personal belongings. Members of the public may not have access to the employee area.

D. Employment Of Minors Prohibited: It shall be unlawful to employ any individual who is not at least eighteen (18) years of age.

E. Register Of Practitioners: Every massage establishment or outcall massage service that hires or contracts with individuals to provide massage services shall ensure at all times that each such individual holds a valid and current DOPL certificate, as well as a city massage therapist identification badge. The massage establishment or outcall massage service shall maintain a register of practitioners that includes each practitioner's DOPL certificate number and a copy of the city massage therapist identification badge, which shall be provided to the city, as well as available for inspection by the department at all times.

F. Therapist Conduct: Massage establishments shall be responsible for the conduct of all individuals providing massage for compensation on their business premises and shall ensure that such individuals properly display their city massage therapist identification badge at all times while on the premises of a massage establishment, as well as ensure that they do not wear improper attire or engage in lewd conduct, which is generally defined as, but not limited to, the following:

1. Required Attire: Massage practitioners shall remain fully clothed while administering massage or otherwise present in a part of the massage establishment to which the public has access (e.g., massage rooms, reception areas, publicly accessible restrooms), including premises designated by the client through an outcall massage service. The massage practitioner's attire shall not include: (1) attire that is transparent, see-through, or that substantially exposes the practitioner's undergarments; (2) swim attire, unless the massage therapist is providing a water-based massage modality that has been approved by DOPL; or (3) attire that exposes the individual's areolas, breasts, buttocks, or genitals.

2. Lewd Conduct Prohibited: Massage practitioners shall not engage in lewd conduct on business premises, including locations designated by the client through an outcall massage service. Lewd acts include, but are not limited to: the performance of acts or simulated acts of sexual intercourse,

masturbation, bestiality, copulation (oral, anal or vaginal), or flagellation; the actual or simulated caressing or fondling by one adult human being of the anus, genitals or breasts, of another adult human being; the actual or simulated displaying of the pubic hair, anus, vagina, penis, vulva, buttocks, areola, or any other external genitalia of the human body. The existence of clothing, a towel, or any other such matter material on or covering either or both the massage practitioner or client does not alleviate the above restricted conduct, nor is it a defense to prohibited conduct.

G. **Locks:** Doors that permit entry into any treatment room may not be equipped with locks or any device designed to prevent, impede, or delay entry into a room. Massage establishment exterior doors may be equipped with locks, but shall remain unlocked while the massage establishment is open. Exterior doors may remain locked while the massage establishment is open only if there is no more than one employee or independent contractor on the premises of the establishment, exclusive of the establishment owner.

H. **No Alcohol Or Illegal Drugs Permitted On Premises:** No alcoholic beverages or drugs may be sold, served, used, or possessed on business premises during business hours.

I. **Human Trafficking Information Notices:** Massage establishments must post in a conspicuous place near the public entrance of the establishment or in another conspicuous location in clear view of the public and employees, the following notice, which is provided by the city:

"If you or someone you know is being forced to engage in any activity and cannot leave-whether it is commercial sex, housework, farm work, construction, factory, retail, or restaurant work, or any other activity-text 233733 (Be Free) or call the National Human Trafficking Hotline at 1-888-373-7888 or the Utah Human Trafficking Tipline at 801-200-3443 to access help and services.

J. **Residential Use:** Massage facility premises shall not be used as a sleeping room or for any other residential purpose. A massage establishment shall be presumed to be used for residential purposes if any of the following items are maintained on the premises:

1. Beds or mattresses, other than professional massage tables;
2. Bedding, such as pillows, blankets, and sheets, other than those used for professional massage tables;
3. Sleepwear, including but not limited to, pajamas, nightgowns, and lingerie;
4. Groceries that require cooking, such as raw meats, poultry, fish, and grains; or
5. Clothing that exceeds one change of clothing for each employee or independent contractor who is present on the premises.

K. **Establishment License To Be Displayed:** Every license to operate a massage establishment or sole massage therapist establishment shall be displayed in a conspicuous place within the establishment such that the license may be readily seen by individuals entering the premises.

L. **Outcall Massage Service License Subject To Inspection:** Every license to operate an outcall massage service must be made available for inspection by the department at all times while providing massage services.

M. Hours Of Operation: No massage business shall operate or provide massage services, and no customer or person not employed or contracted by the massage business may be on the premises of a massage establishment, during the hours between ten o'clock (10:00) P.M. and seven o'clock (7:00) A.M.

N. Advertising: No massage business shall publish or distribute, or cause to be published or distributed, including on the internet, any advertising for services that would violate this chapter.

O. Operation Of Massage School Prohibited: No massage business shall operate a massage school or otherwise provide instruction in massage on the premises of a massage establishment. (Ord. 2019-24, 9-10-2019)

4-12-~~12~~11: INSPECTION:

Any member of the department may inspect any massage establishment or sole massage therapist establishment to determine whether the establishment is operating in compliance with the provisions of local, state, or federal laws, or for the purpose of providing educational materials to employees of the establishment in culturally and linguistically appropriate languages regarding employee rights and information on a variety of resources, including linkage to health care services, victim services, and emergency numbers and hotlines to call for information and assistance. Nothing in this section shall be construed to limit or restrict the lawful authority of a police officer or other city employee to enter premises licensed under this chapter. (Ord. 2019-24, 9-10-2019)

4-12-~~13~~12: SUSPENSION OR REVOCATION OF MASSAGE ESTABLISHMENT, SOLE MASSAGE THERAPIST ESTABLISHMENT, OR OUTCALL MESSAGE SERVICE LICENSE:

A. Grounds For Suspension Or Revocation: The business license official may revoke or suspend any massage establishment, sole massage therapist establishment, or outcall massage service license, if the business license official finds:

1. Facts sufficient to support the denial of such license on any ground set forth in section 4-12-~~10~~9; or
2. The licensee or the licensee's agent, employee, or independent contractor has refused to permit a lawful inspection of its business premises or its operations, or has interfered with city staff in the performance of an inspection such as by threatening them, touching them, or intentionally delaying their entry to the premises of the massage business; or
3. The licensee or the licensee's agent, employee, or independent contractor has engaged in any conduct in connection with the operation of the business that violates the operating requirements set forth in this chapter, any rules or regulations related to massage business operations, or any local, state or federal laws relating to the practice of massage or the operation of a massage business; or
4. The business license official determines that such massage business is being managed, conducted, or maintained without regard for public health or the health of clients or employees, or without due regard for proper sanitation and hygiene.

B. The business license official may not suspend or revoke a massage business license under this chapter until the business license official has issued a notice of business license violation and provided

the massage business and the owner of the property upon which the massage business is located an opportunity to be heard and respond as provided in section 4-12-~~4615~~.

C. Notwithstanding subsection B, the business license official may suspend summarily any massage business license issued under this chapter when, in the judgment of the business license official, a public health hazard requires such summary suspension, or the business license official deems the summary suspension to be in the best interest of the public. The business license official shall provide written notice of such summary suspension to the license holder pursuant to the service defined in section 1-16B-3. No more than three calendar days after written notice of such summary suspension is given, the (3) business license official shall issue a notice of business license violation identifying the alleged acts or failures to act that constitute the basis for the summary suspension, and provide the massage business an opportunity to be heard and respond as provided in section 4-12-~~4615~~, as to why the summary suspension should end. However, the time for hearing and decision shall be accelerated as follows:

1. Upon a timely request for a hearing, the business license official shall set any requested hearing within fourteen (14) calendar days, unless time is extended by mutual agreement of the affected parties; and

2. The business license official, or designee, who shall have the same authority as the business license official to hear and decide the case, and make any orders consistent with this chapter, shall issue a decision on the summary suspension within seven (7) calendar days after hearing.

D. If the licensee appeals a decision by the business license official or designee upholding a summary suspension, the summary suspension shall remain in effect pending a final decision of the appeal. Where a license is revoked after a summary suspension, the revocation shall be effective immediately and, if the licensee further appeals, shall remain in effect pending a final decision of the appeal. (Ord. 2019-24, 9-10-2019)

ARTICLE III. FEES

4-12-~~4413~~: MESSAGE ESTABLISHMENTS, SOLE MESSAGE THERAPIST ESTABLISHMENT, AND OUTCALL MESSAGE SERVICE FEES; REINSPECTION FEES:

A. Massage Establishments: The application fee for a massage establishment license shall be set forth in the city's consolidated fee schedule. The annual license fee for a massage establishment shall be set forth in the city's consolidated fee schedule. The fee shall be due annually.

B. Sole Massage Therapist Establishments: The application fee for a sole massage therapist establishment license shall be set forth in the city's consolidated fee schedule. The annual license fee for a sole massage therapist establishment shall be set forth in the city's consolidated fee schedule. The fee shall be due annually.

C. Outcall Massage Services: The application fee for an outcall massage service license shall be set forth in the city's consolidated fee schedule. The annual license fee for an outcall massage service shall be set forth in the city's consolidated fee schedule. The fee shall be due annually.

D. Exception: A licensed massage therapist holding a sole massage therapist establishment license shall not be required to pay any additional application or annual license fee for an outcall massage service license.

E. Reinspection Fees: If an inspection discloses a violation of any provision of this code or of any state law for which the city is responsible for enforcement, the city shall determine a period of time that is reasonable to correct the violation and shall thereafter reinspect the property to verify such correction. The term "reinspection" shall refer to any inspection by the department to verify whether an owner has corrected a violation. The massage business shall pay a fee as set forth in the city's consolidated fee schedule, to compensate the department for its costs in performing the reinspection. Reinspections that require more than one hour to complete shall be subject to an additional fee, as set forth in the city's consolidated fee schedule. If more than one reinspection is necessary to secure correction of a violation, the massage business shall pay a fee in the amount set forth herein for each reinspection. In the event that the massage business fails to pay any reinspection fee due under this section within thirty (30) days of the due date, the massage business must pay a late payment penalty, as set forth in the city's consolidated fee schedule and the city may collect the reinspection fee through the placement of a lien in the amount of the fee and any late payment penalty owed or delinquent, plus interest of one and a half percent (1.5%) per month, against the real property pursuant to the procedures set forth in section 1-16B-21, recovery of fees and costs. (Ord. 2019-24, 9-10-2019)

ARTICLE IV. ENFORCEMENT AND PENALTIES

4-12-~~1514~~: NOTICE OF BUSINESS LICENSE VIOLATION:

A. If the business license official determines that a massage business is operating in violation of this chapter, (which is deemed in the entirety of this section to include a violation of a license condition and/or a violation of the rules and regulations adopted pursuant to this chapter), the business license official may issue a notice of business license violation to the massage business, the owner of real property where the violation occurred, and/or any other persons the business license official deems responsible for causing the violation.

B. The notice of business license violation shall include the following information:

1. That the business license official has made a determination the massage business has operated in violation of this chapter;
2. The alleged acts or failures to act that constitute the basis for the business license official's determination;
3. That the business license official intends to take enforcement action against the massage business, owner of real property, and/or any other person deemed responsible for causing the violation(s), and the nature of that action, including the administrative penalty and enforcement costs to be imposed, and/or the suspension or revocation of the massage establishment license(s);
4. That the massage business, owner of real property, and/or any other person deemed responsible for causing the violation(s) has the right to request a hearing before the administrative hearing officer for the city, and that said request for a hearing must be made in writing within ten (10) calendar days after the notice of business license violation is served. Service shall be in accordance with section 1-16B-3.

5. A sole practitioner renting or leasing to a sole practitioner is not liable for the actions of the sole practitioner to which the sole practitioner rents or leases so long as the sole practitioner:

a. verifies that the sole practitioner who is renting or leasing is a licensed massage therapist and in good standing in the state of Utah at the time of the rental or lease;

b. obtains a signed attestation from the sole practitioner who is renting or leasing that the sole practitioner has no business arrangement with the licensed individual other than a rental or lease; and

c. produces copies of the following if requested by the city:

d. the sole practitioner's state massage license;

e. the sole practitioner's signed attestation described in subsection (2); and

f. the rental agreement.

C. If no request for a hearing is filed with the business license official within the appropriate period, the right to request a hearing shall be deemed waived, and the business license official's determination shall become final and effective ten (10) calendar days after the notice of business license violation is served. The business license official shall issue an order imposing the enforcement action, and shall send the order to the persons served with the notice of business license violation. In subsequent civil proceedings, such violations shall be deemed not to have been corrected. Where no hearing is timely requested, an order suspending or revoking a license is final. The failure of the person on whom the notice of business license violation is served to request a hearing shall constitute a failure to exhaust administrative remedies and shall preclude the person from obtaining judicial review of the validity of the enforcement action. (Ord. 2019-24, 9-10-2019)

4-12-~~4615~~: BUSINESS LICENSE VIOLATION; HEARING AND APPEAL:

A. Purpose: The city finds that there is a need to establish uniform procedures for business license hearings conducted pursuant to this chapter. It is the purpose and intent of the city to afford due process of law to any person who is directly affected by a business license violation. Due process of law includes notice, an explanation of the accusations, and an opportunity to be heard prior to imposition of a penalty. These procedures are also intended to establish a forum to efficiently, expeditiously, and fairly review and resolve issues raised in any notice of business license violation.

B. Request For Business License Violation Appeal Hearing:

1. An owner of a massage business has the right to request a business license violation appeal hearing by filing a written request and paying the required filing fee, if the request is filed within ten (10) calendar days after the notice of business license violation is served.

2. As soon as practicable after receiving a request for hearing, the city manager or his or her designee shall arrange for and appoint an administrative hearing officer, and the administrative hearing officer will schedule a date, time, and place for the hearing, and will serve written notice of the same to all known owners.

3. Failure to timely request a hearing as provided shall constitute a waiver of the right to a hearing and a waiver of the right to challenge the city's action set out in the notice of violation. Such a failure to request a hearing will result in a default judgment being entered upholding the notice of violation and assessing accrued fees, penalties and costs.

C. Procedures At Business License Violation Appeal Hearings:

1. Informal In Nature: Business license violation appeal hearings are intended to be informal in nature. The formal Utah Rules of Evidence and Discovery do not apply; however, an informal exchange of relevant documents and other evidence may be required at the discretion of the administrative hearing officer.

2. Discovery Requests: Discovery requests must be in writing directed to the opposing party. Failure to timely request discovery shall preclude a continuance to enable additional discovery or investigation.

3. Personal Information Protected: A complainant's personal identifying information is protected and shall not be released unless the complainant is a witness at the hearing.

4. Burden Of Proof:

a. The city bears the burden of proof at a business license violation appeal hearing requested to substantively challenge a notice of business violation.

b. At a hearing challenging the suspension or revocation of a massage business license, the owner of the massage business will bear the burden of proof and persuasion with respect to the claim that a violation did not occur.

5. Standard Of Proof: The standard of proof to be used by the administrative hearing officer in deciding any issue at a business license violation appeal hearing is the preponderance of the evidence. A preponderance of the evidence shows what is more likely than not.

6. Activities Allowed To Support Case: Each party shall have the opportunity to cross examine witnesses and present evidence in support of his or her case. If approved in advance by the administrative hearing officer, testimony may be given by telephone or other electronic means.

7. Hearings Open To Public: All hearings are open to the public. Hearings shall be recorded to enable verbatim transcripts to be prepared as needed.

8. Representation By Attorney: The owner of a massage business may be represented by an attorney. If an attorney will be representing the owner at the hearing, notice of the attorney's name, address, and telephone number must be given to the city's business license official at least seventy two (72) hours prior to the hearing. If timely notice is not given, and an attorney appears for an owner, the hearing will be continued at the city's request, and any costs of the continuance will be assessed to the owner.

9. Fee Refund If Violation Dismissed: If the administrative hearing officer dismisses the notice of business license violation entirely, the hearing fee shall be refunded to the owner who paid it.

D. Failure To Attend A Business License Appeal Hearing: Any owner named in a business license notice of violation who fails to appear at a duly noticed hearing is deemed to waive the right to a hearing, which will result in a default judgment entered for the city as to that owner and massage business. (Ord. 2019-24, 9-10-2019)

4-12-~~17~~16: APPEAL OF FINAL DETERMINATION OF BUSINESS LICENSE VIOLATION:

A. Judicial Review: Any person adversely affected by any final business license violation determination issued following a business license violation appeal hearing, may file a petition for review of the final business license violation appeal determination in the District Court within thirty (30) days after the date of the final business license violation appeal determination.

B. Exhaustion Of Administrative Remedies: No person may challenge in District Court a final business license violation appeal determination until that person has exhausted his or her administrative remedies.

C. Obtaining The Administrative Record For Judicial Review: Within thirty (30) days after submitting a petition for review in the District Court, the party petitioning for judicial review shall request a copy of the record of the business license violation appeal hearing, including transcripts if required by the District Court. The city shall not submit copies of files or transcripts to the reviewing court until the party petitioning for judicial review has paid all required copying and transcription costs. The petitioning party's failure to properly arrange for copies of the record, or to pay the full costs for the record, within sixty (60) days after the petition for review was filed shall be grounds for dismissal of the petition. The city shall have an additional sixty (60) business days from the date of request to prepare and submit the requested file and/or transcript.

D. Possible Remand Back To City: If a transcript of a hearing cannot be prepared because the tape recording is incomplete or unintelligible, and there is no other reliable record of the business license violation appeal hearing otherwise available, the District Court may, in its discretion, remand the matter back to the city for a supplemental proceeding to create a usable record.

E. District Court Review On The Record: The District Court's review is limited to the evidence in the record of the business license violation appeal determination that is being reviewed, and not a new trial or hearing on the facts or evidence. The court shall not accept nor consider any evidence that is not part of the city's record.

F. Scope Of District Court Review; Burden Of Proof: The District Court shall:

1. Presume that the business license violation appeal determination on review is valid; and
2. Review the record to determine whether or not the evidence available to the administrative hearing officer shows that the order was arbitrary, capricious, or illegal.
3. The petitioner for review has the burden of proof before the District Court. (Ord. 2019-24, 9-10-2019)

4-12-~~18~~¹⁷: VIOLATIONS AND ADMINISTRATIVE PENALTIES:

A. Any person who violates any provision of this chapter or any rule or regulation adopted pursuant to section 4-12-2 may, after being provided notice and an opportunity to be heard, be subject to the following monetary and license penalties. The business license official or administrative hearing officer may impose administrative fines and/or license penalties that exceed those listed below where the business license official or administrative hearing officer finds that such higher fines and/or penalties are necessary or appropriate to protect and promote the health and well-being of a massage business' employees, customers, and/or neighbors.

1. Message Business Operating Without A Massage Business License:
 - a. Administrative Fine: Up to one thousand dollars (\$1,000.00) per day of operating without a license; and
 - b. License Penalty: Business location and owner of massage business ineligible for a massage business license for one hundred eighty (180) days.
 - c. Repeat Violations: Same penalties as A1a and A1b.
2. Massage Business Employing Any Person Under Eighteen (18) Years of Age:
 - a. Administrative Fine: None.
 - b. License Penalty: Mandatory revocation of massage business license. Massage business licensee ineligible for a subsequent license for one hundred eighty (180) days.
3. Solicitation Citations, Charges, Or Convictions, As Defined By Utah Code Annotated, For Anyone Working At Massage Establishment:
 - a. Administrative Fine: Five thousand dollars (\$5,000.00) to be paid by massage establishment licensee; and
 - b. License Penalty: Mandatory sixty (60) to one hundred twenty (120) days suspension of massage establishment license.
 - c. Repeat Violations; Revocation: Licensee ineligible for a subsequent massage establishment license at any location for a period of two (2) years.
4. Trafficking Charges Or Convictions, As Defined By Utah Code Annotated, For Anyone Working At Massage Establishment:
 - a. Administrative Fine: None.
 - b. License Penalty; Revocation: Licensee ineligible for a subsequent massage establishment license at any location.
 - c. Repeat Violations: Same penalty as A4b.
5. Massage Establishment Or Outcall Massage Service Employing Individual Without DOPL Certification To Administer Massage:
 - a. Administrative Fine: One thousand dollars (\$1,000.00) to be paid by massage business licensee.
 - b. License Penalty: None.
 - c. Repeat Violations: Fifteen (15) to thirty (30) day suspension of massage business license and up to two thousand five hundred dollar (\$2,500.00) fine for second occurrence; thirty (30) to sixty (60) day suspension or revocation of massage business license, and up to five thousand dollars (\$5,000.00) fine for third occurrence.
6. Massage Facilities Used For Residential Sleeping Purposes:
 - a. Administrative Fine: Up to one thousand dollars (\$1,000.00).

b. License Penalty: None.

c. Repeat Violations: Fifteen (15) to thirty (30) day suspension of massage business license and up to two thousand five hundred dollars (\$2,500.00) fine for second occurrence; thirty (30) to sixty (60) day suspension of massage business license and up to five thousand dollar (\$5,000.00) fine for third occurrence.

7. Presence Of Beds Instead Of Or In Addition To Massage Tables:

a. Administrative Fine: One thousand dollars (\$1,000.00).

b. License Penalty: None.

c. Repeat Violations: Fifteen (15) to thirty (30) day suspension of massage business license and up to two thousand five hundred dollar (\$2,500.00) fine for second occurrence; thirty (30) to sixty (60) day suspension of massage business license and up to five thousand dollar (\$5,000.00) fine for third occurrence.

8. Any Massage Service Provider Improperly Attired In Violation Of Section 4-12-~~4110~~F:

a. Administrative Fine: Up to five hundred dollars (\$500.00) per person found to be improperly attired, to be paid by massage business licensee.

b. License Penalty: Sixty (60) day suspension of massage business license for each person found to be improperly attired.

c. Repeat Violations: Up to one thousand five hundred dollars (\$1,500.00) fine per person to be paid by massage business licensee for second and each subsequent occurrence; one hundred eighty (180) day suspension of massage therapist license and revocation of massage business license.

9. Sanitation Violations Pursuant To Section 4-12-~~4110~~A:

a. Administrative Fine: None on first offense.

b. License Penalty: None on first offense.

c. Repeat Violations: Up to two hundred fifty dollars (\$250.00) fine and sixty (60) day suspension of massage business license.

10. Massage Business Operating Between The Hours Of Ten O'Clock (10:00) P.M. And Seven O'Clock (7:00) A.M.:

a. Administrative Fine: Up to one thousand dollars (\$1,000.00).

b. License Penalty: Fifteen (15) to thirty (30) day suspension of massage business license.

c. Repeat Violations: Thirty (30) to sixty (60) day suspension and up to two thousand five hundred dollars (\$2,500.00) for second occurrence; sixty (60) to ninety (90) day suspension and up to five thousand dollars (\$5,000.00) fine for third and each subsequent occurrence.

11. Anyone Engaged In Lewd Conduct Or Performing Sex Acts As Defined In Section 4-12-~~4110~~F On Massage Business Premises:

a. Administrative Fine: Two thousand five hundred dollars (\$2,500.00) to be paid by massage business licensee; and

b. License Penalty: Revocation of massage business license.

c. Additional: License holder ineligible for subsequent massage business license for a period of five (5) years from the date of license revocation.

12. Failure To Post Notices As Required By Section 4-12-~~44~~10I:

a. Administrative Fine: Written warning for first violation, two hundred fifty dollars (\$250.00) for second and each subsequent violation within twelve (12) months.

b. License Penalty: Thirty (30) day suspension of massage business license for third and subsequent violations.

13. Failure To Properly Display A Valid Massage Therapist Identification Badge, As Required By Section 4-12-~~44~~10F:

a. Administrative Fine: Two hundred fifty dollars (\$250.00) to be paid by massage business; and

b. License Penalty: None.

c. Repeat Violations: Thirty (30) to sixty (60) day suspension and up to two thousand five hundred dollars (\$2,500.00) for second occurrence; sixty (60) to ninety (90) day suspension and up to five thousand dollars (\$5,000.00) fine for third and each subsequent occurrence.

14. Publishing Advertising In Violation Of Section 4-12-~~44~~10M:

a. Administrative Fine: One thousand dollars (\$1,000.00) fine.

b. License Penalty: Thirty (30) day suspension of massage business license for second and subsequent violations.

15. Interfering With City Staff In Their Performance Of An Inspection, As Prohibited By Section 4-12-~~43~~12A2:

a. Administrative Fine: One thousand dollars (\$1,000.00) fine to be paid by massage business licensee.

b. Repeat Violations: Two thousand five hundred dollar (\$2,500.00) fine and thirty (30) day suspension of massage business license for second occurrence; revocation of massage business license for third occurrence.

16. Equipping Interior Doors With Locks Or Locking Devices, Or Locking Exterior Doors, In Violation Of Section 4-12-~~44~~10G:

a. Administrative Fine: Up to one thousand dollars (\$1,000.00).

b. License Penalty: Fifteen (15) to thirty (30) day suspension of massage business license.

c. Repeat Violations: Thirty (30) to sixty (60) day suspension and up to two thousand five hundred dollars (\$2,500.00) for second occurrence; sixty (60) to ninety (90) day suspension and up to five thousand dollar (\$5,000.00) fine for third and each subsequent occurrence.

17. All Other Violations Of State Or County Health Codes, And This Chapter's Massage Business Regulations:

a. Administrative Fine: Up to one thousand dollar (\$1,000.00) fine.

b. License Penalty: Possible suspension or revocation.

c. Repeat Violations: Up to two thousand five hundred dollar (\$2,500.00) fine for the second violation and possible license suspension or revocation; up to five thousand dollars (\$5,000.00) for the third and subsequent violations, and license suspension or revocation.

B. Notice To Property Owner: Written notice of each notice of violation that proposes to suspend or revoke a massage business license shall be served on the owner(s) of the property upon which the massage business is located, at the same time and in the same manner as required by section 4-12-~~15~~14.

C. Payment And Collection Of Administrative Penalty And Enforcement Costs: Any administrative penalty and/or enforcement costs assessed under this chapter is a debt to the city and shall be paid to the city. Any amount paid late pursuant to section 4-1-11, shall be subject to an additional late fine of ten percent (10%) on the unpaid amount. The sum of the unpaid amount and the ten percent (10%) late fine shall accrue interest at the rate of one percent (1%) per month (or fraction thereof) until fully paid; any partial payments made shall first be applied to accrued interest. The city may file a civil action or pursue any other legal remedy to collect such unpaid amount, fine, and interest. In any civil action for collection, the city shall be entitled to obtain a judgment for the unpaid amounts, fine, and interest, and for the costs and attorneys' fees incurred by the city in bringing such civil action.

D. Lien For Administrative Penalty: Where an activity or condition on real property within the city has caused, contributed to, or been a substantial factor in causing the violation, the business license official may initiate proceedings to make any unpaid administrative penalty, enforcement costs, fine, and interest, and all additional authorized costs and attorneys' fees, a lien on the property. Such liens shall be imposed in accordance with section 1-16B-21, Utah state law, or any successor provisions. Before initiating lien proceedings, the business license official shall send a request for payment and clearly indicate the intent to initial lien proceedings.

E. No Bar To Criminal Prosecution: Nothing in this chapter shall preclude the prosecution of anyone under any other county or state health codes, or any other laws of the state of Utah, or the laws of the United States of America. (Ord. 2019-24, 9-10-2019)

4-12-~~19~~18: ENFORCEMENT:

A. The city may at any time institute civil proceedings for injunctive and monetary relief including civil penalties, against any person for violations of this chapter, without regard to whether the business license official has issued a notice of violation, instituted abatement proceedings, scheduled or held a hearing on a notice of violation, or issued a final decision.

B At any time, the business license official may refer a case for civil enforcement, but a referral is not required for the city to bring a civil action under subsection A.

C. Action For Injunction And Civil Penalty: Any person that violates any provision of this chapter shall be enjoined and shall be subject to a civil penalty in an amount not to exceed one thousand dollars (\$1,000.00) for each day such violation is committed or permitted to continue, which penalty shall be assessed and recovered in a civil action brought by the city in any court of competent jurisdiction. In assessing the amount of the civil penalty, the court shall consider any one or more of the relevant circumstances presented by any of the parties to the case, including but not limited to, the following: the nature and seriousness of the misconduct giving rise to the violation, the number of violations, the persistence of the misconduct, the length of time over which the misconduct occurred, the willfulness of the defendant's misconduct, and the defendant's assets, liabilities, and net worth.

D. Attorneys' Fees: The prevailing party in any court case or special proceeding to enforce this chapter shall recover reasonable attorneys' fees if the city elects, at the initiation of the action, to seek recovery of attorneys' fees and provides notice of such intention to the adverse party or parties. In no court case or special proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the city.

E. Remedies: Remedies under this chapter are non-exclusive and cumulative to all other remedies available at law or equity. (Ord. 2019-24, 9-10-2019)

4-12-~~2019~~: COOPERATIVE EFFORTS WITH LAW ENFORCEMENT:

The business license official shall work with the chief of police on issues of common concern affecting the massage industry, such as protections against violence in massage establishments, crimes against massage practitioners, forced labor, or trafficking. (Ord. 2019-24, 9-10-2019)

4-12-~~2120~~: UNDERTAKING FOR THE GENERAL WELFARE:

In regulating massage businesses and massage services as provided in this chapter, the city is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury. (Ord. 2019-24, 9-10-2019)

4-12-~~2221~~: SEVERABILITY:

If any of the provisions of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of this chapter, including the application of such part or provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this chapter are severable. (Ord. 2019-24, 9-10-2019)

4-12-~~2322~~: NO CONFLICT WITH STATE OR FEDERAL LAW:

Nothing in this chapter shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any federal or state law. (Ord. 2019-24, 9-10-2019)

CHAPTER 14
MOBILE FOOD VENDORS

SECTION:

4-14-1: Applicability

4-14-2: License Required

4-14-3: Definitions

4-14-4: Permitted Locations

4-14-5: Insurance Requirements

4-14-6: Prohibited Acts

4-14-1: APPLICABILITY:

In addition to all rules and regulations set forth in Chapter 1 of this title, the regulations contained in this chapter shall apply to mobile food vendor businesses.

4-14-2: LICENSE REQUIRED:

It is unlawful for any person to operate, conduct, carry on, or maintain mobile food vending without a business license. All mobile food vendors must be able to produce a valid business license, health department food truck permit, and evidence of a successful fire safety inspection upon request by a City official.

A. Separate Licenses Required: A separate business license shall may be required for each mobile food vending unit.

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B. Health Department Permit and Fire Safety Inspection: Prior to issuance of a City license, vendors must obtain a Davis County health department permit from the local health department that has jurisdiction over the area in which majority of the food truck's operations occur. Such permit must remain in force during the license period. A vendor must also pass a fire safety inspection performed by the North Davis Fire District, or show that it has passed a fire safety inspection by another political subdivision within the current calendar year.

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C. Fees: The license fees for a mobile food vendor shall be set by resolution of the City Council and published in the City fee schedule.

1. A mobile food vendor currently licensed in another political subdivision within the state will be issued a Clearfield license matching the expiration date.
2. A mobile food vendor who does not submit an active license certificate from another political subdivision will be issued a license for 12 months.

4-14-3: DEFINITIONS:

In addition to the definitions set forth in other sections of this code, the following words and phrases used in this chapter shall have the meanings herein prescribed:

CITY OWNED PROPERTY: City property shall include all parks, open space, parcels containing City operations, buildings, rights of way, and all other such properties. City owned property includes all parking lots on these properties.

MOBILE FOOD VENDOR UNIT: An enclosed truck, trailer, or similar vehicle mounted unit that is:

1. A licensed motor vehicle or is capable of being moved by a licensed motor vehicle;
2. Independent with respect to water, wastewater, and power utilities; and
3. Used for the preparation, sale, or donation of food products and beverages.

The definition of mobile food vendor unit shall not include vending carts or ice cream trucks.

4-14-4: PERMITTED LOCATIONS:

Mobile Food Vending on Private Property: Vendors may only operate on private property with the express prior written permission of a person with authority to act on behalf of the property owner.

Mobile Food Vending On City Owned Property And In City Rights Of Way: Mobile food vending is allowed on designated City owned property, not including City Rights of way, only in the following circumstances:

1. City parks: As part of an approved pavilion or field rental or by invitation of the individual that rented the pavilion.
2. City sponsored events on City owned property: In an assigned location and invitation of the City.

4-14-5: INSURANCE REQUIREMENTS:

Any application for a permit as herein provided shall be accompanied by a certificate of insurance naming Clearfield City as an additional insured. Such commercial general liability insurance shall be in a sum not less than \$1,000,000 per occurrence and \$2,000,00 aggregate for bodily injury, property damage, personal & advertising injury and products & completed operations liability. In addition, automobile insurance shall be in a sum not less than \$1,000,000 per occurrence. No city officer or licensing agent or other representative of the city shall in any event issue any permit hereinabove referred to until such certificate of insurance has been furnished and passed upon by the city attorney or designee to form and sufficiency.

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4-14-6: PROHIBITED ACTS:

1. Preparation Outside The Mobile Food Vending Unit: Vendors may prepare food and beverages outside of the unit (e.g., meat smoking, corn roasting) but such preparation shall not obstruct vehicle or pedestrian traffic nor create safety hazards to the public. Vendors, however, shall not serve food directly to customers from such outside food preparation area.
2. Items For Sale: Only food and beverage items, and merchandise branded with the mobile food vending logos such as apparel or beverage containers, may be sold from units. The sale or distribution of other merchandise, professional or personal services, or alcoholic beverages is prohibited.
3. Obstruction of Traffic: Placement of units or related accessories shall not obstruct or impede pedestrian traffic or vehicular traffic, access to and from driveways, or clear vision lines for vehicle drivers.
4. Drive-Through or Drive-In Service Prohibited: Units shall serve pedestrians only. Drive-through or drive-in service is prohibited.
5. No signs shall be used to advertise a mobile food truck except that signage which is affixed to the vehicle itself. One small A-frame sign can be used to advertise a mobile food truck, as long as it is not located in the right of way, and it is removed from the property nightly.

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CLEARFIELD CITY ORDINANCE 2025-24

AN ORDINANCE AMENDING TITLE 4 OF THE CLEARFIELD CITY CODE

PREAMBLE: This Ordinance amends Title 4 – Business and License Regulations, Chapter 1– General Business and License Provisions; Title 4 Business and License Regulations, Chapter 5– Consumer Fireworks Sales; Title 4 – Business and License Regulations, Chapter 7– Rental Dwellings; Title 4 – Business and License Regulations, Chapter 10 – Retail Tobacco Specialty Licenses; Title 4 – Business and License Regulations, Chapter 12 – Massage Businesses and, enacts Title 4 Business and License Regulations, Chapter 14 – Mobile Food Vendors in the Clearfield City Code.

BE IT ORDAINED BY THE CLEARFIELD CITY COUNCIL:

Section 1. Enactment:

Title 4 – Business and License Regulations, Chapter 1– General Business and License Provisions is hereby amended to read as follows:

Chapter 1 General Business and License Provision

SECTION:

- [4-1-1](#): Definitions
- [4-1-2](#): Classifications; Privileges
- [4-1-3](#): Business License Official
- [4-1-4](#): License Required; Exceptions
- [4-1-5](#): Application For License
- [4-1-6](#): Review And Approval Procedures
- [4-1-7](#): Denial Or Revocation
- [4-1-8](#): Appeal Of Business License Official's Decision
- [4-1-9](#): Fee For License
- [4-1-10](#): License Period
- [4-1-11](#): Delinquent Date And Late Fee
- [4-1-12](#): Rules And Regulations Of License And Licensee
- [4-1-13](#): Inspections Of Premises
- [4-1-14](#): False Information Prohibited
- [4-1-15](#): Penalty

4-1-1: DEFINITIONS:

For the purposes of this title, the following terms shall have the meanings herein prescribed:

APPLICANT: Any person applying for any license provided for in this title. If the person is a partnership or corporation, then each partner, officer or director is considered an applicant and must qualify accordingly.

BASE FEE: The fee determined as the cost to prepare, process and administer the business license.

BUSINESS: Includes all activities together with any devices, machines or vehicles used therein for the purpose of gain or economic profit.

CLASS OF BUSINESS: A group of businesses doing similar types of things.

DISPROPORTIONATE COST: The additional cost assessed to businesses that require a greater level of basic service.

EMPLOY: Hiring an individual to work for pecuniary compensation or any other form of compensation, whether such person is hired on the payroll of the employer, as an independent contractor, as an agent or in any other form of employment relationship.

ENGAGING IN BUSINESS: One act constitutes engaging in business, and includes, but is not limited to, the sale of tangible personal or real property and the rendering of personal service for others for a consideration by persons engaged in craft, business, occupation, hobbies or other calling. Engaging in business shall also include, but not be limited to, one act of selling of any goods or services or soliciting business, or offering goods or services for hire. Engaging in business shall include the occupancy of any office or other space in which business transactions are carried out. Engaging in business shall also include the renting by a lessor of space, whether enclosed or not, to be used as office space for any use or endeavor, including, but not limited to, commercial, medical, dental, or other professional activities. Engaging in business shall also include the renting by a lessor of ~~three (3)~~ one (1) or more rental units, buildings, apartments, or houses for the purpose of profit, whether the units are enclosed within one structure or combination thereof.

ENTITY: Includes a corporation, partnership, limited liability company, or other lawful entity, organization, society or association.

HAZARDOUS MATERIAL: Those chemicals or substances which are physical hazards or health hazards in usable or waste condition according to the city's currently adopted fire code.

HOME OCCUPATION: Any income producing use conducted entirely within a dwelling unit and carried on only by persons residing in that dwelling unit, which use is clearly incidental, secondary and compatible to the residential use of the building. In general, a home occupation is an accessory use so located and conducted, that the average neighbor, under normal conditions, would be unaware of its existence.

LICENSEE: Any person who is issued a license under the provisions of this title.

MINOR: Any person less than eighteen (18) years of age.

MOBILE FOOD VENDOR: A person or entity engaged in selling food from a temporary location or mobile structure for a temporary period of time.

NEW BUSINESS: Any activity which results in gain or economic profit which has not been conducted previously by another licensee on that premises.

NONPROFIT ORGANIZATION: Any organization which was organized and is operating for charitable purposes and which meets the requirements of the internal revenue service of the U.S. department of treasury that exempt the organization from income taxation under the provisions of the internal revenue code.

PAWNBROKER: Shall have the meaning set forth in Utah Code Annotated title 13, chapter 32a for pawn and secondhand businesses.

PERSON: An individual, individuals, tenants in common, joint tenants, a corporation, partnership, firm, limited partnership, or any other association of individuals, however comprised or designated.

RENTAL DWELLING UNIT: Any individual dwelling unit, parcel of land, or portion thereof that is rented, loaned, let or hired out to be used or occupied as a home or residence. Rental dwelling unit includes any single-family home, duplex, townhome, condominium, mobile home, manufactured home, modular home, or apartment when used for such purposes.

TEMPORARY OR SEASONAL MERCHANT: A person who sells any nonfood product (i.e., flowers, Christmas trees, handcrafted items, etc.) at a temporary location for a temporary period of time.

4-1-2: CLASSIFICATIONS; PRIVILEGES:

A. Classifications: Licenses issued under the provisions of this chapter shall be of the following classes:

1. General business.
2. Temporary or seasonal merchant.
3. Beer.
4. Sexually oriented business.
5. Sexually oriented business employee.
6. Consumer fireworks sales.
7. Pawnbroker.
8. Rental dwelling.

9. Solicitor.
10. Mobile food vendor.
11. Retail tobacco specialty business.

~~12. Tattoo or body piercing establishment.~~

B. Privileges:

1. General Business License: A general business license shall allow the licensee to conduct business within the city as prescribed by this title, including the operation of a home occupation. Additional regulations for home occupations are set forth in title 11, chapter 16 of this code.
2. Temporary Or Seasonal Merchant License: A temporary or seasonal merchant license shall allow the licensee to engage in the business of selling nonfood products for a temporary period of time at a temporary location within the city pursuant to additional regulations for temporary or seasonal merchant licenses as set forth in this chapter, chapter 9 of this title, and title 11 of this code. A temporary or seasonal merchant's license shall not be required for merchants participating in a city sponsored event or activity.
3. Beer License: A beer license shall allow the licensee to engage in the business of selling beer within the city pursuant to additional privileges and regulations for beer licenses as set forth in this chapter and chapter 2 of this title. A valid general business license is required prior to the issuance of a beer license.
4. Sexually Oriented Business License: A sexually oriented business license shall allow the licensee to conduct a sexually oriented business within the city pursuant to additional regulations for sexually oriented business licenses as set forth in this chapter ~~and~~ chapter 4 of this title, and title 11 of this code.
5. Sexually Oriented Business Employee License: A sexually oriented business employee license shall allow the licensee to be employed by a sexually oriented business within the city pursuant to additional regulations for sexually oriented business employee licenses as set forth in this chapter and chapter 4 of this title.
6. Consumer Fireworks Sales License: A consumer fireworks sales license shall allow the licensee to engage in the business of selling consumer (class C) fireworks within the city pursuant to additional regulations for fireworks stand licenses as set forth in this chapter, ~~and~~ chapter 5, chapter 7 of this title, and title 11 of this code.
7. Pawnbroker License: A pawnbroker license shall allow the licensee to engage in the business of pawnbroker within the city pursuant to additional regulations for pawnbroker licenses as set forth in this chapter, ~~and~~ chapter 6 of this title, and title 11 of this code.
8. Rental Dwelling License: A rental dwelling license shall allow the licensee to own and/or operate a rental dwelling unit within the city pursuant to additional regulations for rental dwelling licenses as set forth in this chapter and chapter 7 of this title.

9. Solicitor's License: A solicitor's license shall allow the licensee to solicit within the city pursuant to additional regulations for solicitors' licenses set forth in chapter 8 of this title.

10. Mobile Food Vendor's License: A mobile food vendor's license shall allow the licensee to sell food within the city pursuant to additional regulations for mobile food vendor licenses set forth in chapter 14 of this title ~~for a temporary period of time from a temporary location or mobile structure~~. A mobile food vendor's license shall not be required for vendors participating in a city sponsored event or activity.

11. Retail Tobacco Specialty License: A retail tobacco specialty license shall allow the licensee to conduct business as a retail tobacco specialty business within the city pursuant to additional regulations set forth in this chapter, chapter 10 of this title, and title 11 of this code.

~~12. Tattoo Or Body Piercing Establishment License: A tattoo or body piercing license shall allow the licensee to conduct business as a tattoo or body piercing business within the city pursuant to additional regulations set forth in this chapter, chapter 11 of this title, and title 11 of this code.~~

4-1-3: BUSINESS LICENSE OFFICIAL:

The city shall designate a business license official whose duties shall include the following:

- A. Process Applications: To process all applications for business licenses.
- B. Collect Fees: To be responsible for collection of all license fees and any accrued penalties.
- C. Issue Licenses: To issue licenses in the name of the city to all persons qualified under the provisions of this chapter.
- D. Enforce Rules And Regulations: To enforce all reasonable rules and regulations necessary to the operation and enforcement of this chapter.
- E. Secure Confidential Information: Subject to state and federal law, to keep all information furnished or secured under the authority of this chapter in strict confidence. Such information shall not be subject to public inspection and shall be kept so that the contents thereof shall not be known except to persons charged with the administration of this chapter. (Ord. 2008-04, 7-22-2008)

4-1-4: LICENSE REQUIRED; EXCEPTIONS:

- A. Generally: It is unlawful for any person to engage in business within the city without first obtaining a license as required by this chapter.
- B. Contractors And Subcontractors: General contractors and subcontractors who live in the city or have an office in the city either in an office building or in their home, shall obtain a city business license and shall pay the base fee required by this chapter.
- C. Separate License: A separate license must be obtained for each branch established, or each separate place of business in which the business of the licensee is engaged. A separate license

must be obtained for each business conducted under the same roof unless conducted through the same books.

D. Deliveries Only: A business license will not be required of any company whose employees enter the city limits only for delivery of goods, such as flower delivery, parcel delivery, etc.

E. Home Occupations: All home occupations shall be required to obtain a general business license in accordance with the provisions of this chapter. Additional regulations for home occupations are set forth in title 11, chapter 16 of this code. The following activities are exempt from the requirement for a general business license:

1. Childcare for children of relatives.
2. Newspaper carriers.
3. Yard sales/garage sales.
4. Youth (minor) neighborhood seasonal work. (Ord. 2009-15, 11-24-2009)

4-1-5: APPLICATION FOR LICENSE:

A. Information Required For Application For License: All applications for a license shall be made in writing upon the form(s) provided by the city. The application shall show:

1. The name of the business and the date of application.
2. The name(s) and signature(s) of the owner(s) of the business and the applicant requesting said license.
3. All vital statistics for the owner(s) of the business and the applicant as requested on application and required for police background checks.
4. The location where business is to be conducted and the mailing address of the premises of the business. (Ord. 2009-15, 11-24-2009)
5. Proof of business registration through the Utah department of commerce or Utah division of occupational and professional licensing shall be required for the following types of businesses: general businesses, home occupations, alcoholic beverages, sexually oriented businesses, fireworks sales, pawnbrokers, temporary or seasonal merchants, **retail tobacco specialty, solicitors**, and mobile food vendors. Childcare providers may obtain a license from the Utah bureau of child health and safety in lieu of registration with the Utah department of commerce. (Ord. 2011-04, 2-22-2011)
6. A Utah sales tax identification number, where applicable.
7. A federal employer identification number, where applicable.
8. Verification of approval by the Davis County health department, if applicable.
9. Any other information required by ordinance or the city.

B. Additional Information Required:

1. An application for a beer license shall show the information required by chapter 2 of this title.
2. An application for a temporary or seasonal merchant's license or ~~mobile food vendor's license~~ shall show the information required by chapter 9 of this title.
3. An application for a sexually oriented business or employee license shall show the information required by chapter 4 of this title.
4. An application for a fireworks stand license shall show the information required by chapter 5 of this title.
5. An application for a pawnbroker license shall show the information required by chapter 6 of this title.
6. An application for a rental dwelling license shall show the information required by chapter 7 of this title.
67. An application for a solicitor's license shall show the information required by chapter 8 of this title.
- ~~78.~~ An application for a retail tobacco specialty license shall show the information required by chapter 10 of this title.
9. An application for a massage business license shall show the information required by chapter 12 of this title.
10. An application for a mobile food vendor license shall show the information required by chapter 14 of this title.

4-1-6: REVIEW AND APPROVAL PROCEDURES:

A. Application Review: Upon receiving a complete application for a license, the business license official shall, upon determining that the applicant and proposed business are in compliance with all applicable city ordinances and regulations, make a decision to either approve or deny the license. In making the decision, the business license official may consider recommendations from any or all of the following city staff, or their designees, if necessary:

1. The chief of police.
2. The planning and zoning administrator.
3. The building official.
4. The city attorney.

B. Notification To Applicant: The applicant shall be notified of the decision in writing by the business license official.

C. Regulations Specific To Sexually Oriented Business And Employee Licenses: Chapter 4, "Sexually Oriented Businesses And Employees", of this title, contains additional regulations that shall apply to the review and approval procedures for an application for a sexually oriented business or employee license. (Ord. 2009-15, 11-24-2009)

4-1-7: DENIAL OR REVOCATION:

A. General Provisions: The business license official may deny an application for license or revoke a license for any of the following reasons:

1. Fraud or misrepresentation in its procurement.
2. Violation of this title by failure to comply with any or all of the provisions of this title.
3. Failure to pay any license fee levied when due.
4. Failure to comply with any of the requirements imposed by this code.
5. Violation of any city ordinance or state or federal statute concerning pornographic or harmful materials or performances at the licensed premises.
6. Conduct or acts of the licensee or employees, or any act permitted by them on the premises where such business is conducted, which render the premises a public nuisance or menace to the health, peace, safety or general welfare of the city.
7. A violation of city ordinance or federal or state statute relating to the business or activity which is licensed and resulting from the conduct of such business activity.
8. For any other good cause shown.

B. ~~Provisions Specific To Beer Licenses And Sexually Oriented Business And Employee Licenses~~ Additional Provisions Based on Specific License:

1. Chapter 2, "Alcoholic Beverage Control", of this title, contains additional criteria which may be cause for denial or revocation of a beer license by the business license official.
2. Chapter 4, "Sexually Oriented Businesses And Employees", of this title, contains additional criteria which may be cause for denial or revocation of a sexually oriented business or employee license by the business license official.
3. Chapter 8, "Soliciting," of this title, contains additional criteria which may be cause for denial or revocation of a soliciting license by the business license official.
4. Chapter 10, "Retail Tobacco Specialty Licenses," of this title, contains additional criteria which may be cause for denial or revocation of a retail tobacco specialty license by the business license official.
5. Chapter 12, "Massage Business License," of this title, contains additional criteria which may be cause for denial or revocation of a massage business license by the business license official.

C. Temporary Suspension: Under the direction of the chief of police, every peace officer is authorized to temporarily suspend and confiscate any license issued under this chapter for any violation of this chapter or of the alcoholic beverage control act. Such temporary suspension shall be reported in writing to the business license official within seventy two (72) hours, together with a statement of the reasons thereof. This report, along with the license, shall be delivered to the business license official who shall then take action with respect to the revocation of such license, or the restoration thereof. (Ord. 2009-15, 11-24-2009)

4-1-8: APPEAL OF BUSINESS LICENSE OFFICIAL'S DECISION:

A. Written Appeal: Aggrieved applicants may appeal the decision of the business license official within ten (10) days of receipt or delivery of said decision. Appeals shall be filed by a written statement submitted to the city recorder detailing the grounds upon which the aggrieved applicant is appealing the business license official's decision. Upon receipt of such an appeal, it shall be scheduled for a hearing before the designated hearing officer within twenty (20) days, unless such time is extended for good cause.

B. Hearing Required: The hearing officer shall afford the appellant an opportunity, in a hearing, to show cause as to why the license should not be denied or revoked.

1. Notice: The date, time and place of the hearing shall be fixed by the city recorder and personal service of the appellant for the notice thereof shall be attempted. The city recorder must make reasonable steps to ensure the appellant gets actual notice. The notice shall indicate the purpose of the hearing and the action contemplated.

2. Procedure: At the hearing, the appellant shall have the right to appear personally or by counsel, to cross examine witnesses, and to produce evidence and witnesses on his behalf.

3. Burden Of Proof: The appellant has the burden of proof.

4. Standard Of Review: Legislative decisions shall be valid if "reasonably debatable" and not illegal. Administrative or quasi-judicial decisions shall be valid if supported by "substantial evidence" and not illegal.

5. Final Decision On Appeal And Notice Of Action Taken: After such hearing, the hearing officer will have seven (7) business days, unless extended for good cause, to issue written "findings, conclusions and recommendation" to the city council, which will also be provided to the appellant. After due deliberation upon the hearing officer's findings, conclusions and recommendation, which may (at the council's discretion) include taking additional evidence, the city council shall render a final decision on the appeal by adopting the hearing officer's findings, conclusions and recommendation, or taking some other action. The city recorder will notify the appellant in writing of final decision reached by the council. (Ord. 2012-05, 6-26-2012, eff. 7-1-2012)

4-1-9: FEE FOR LICENSE:

A. Administration Fee Levied: For the purpose of regulating costs to the city and to regulate businesses for compliance to the land use, building and police codes, there is levied upon every

company or person engaging in business in the city, an administrative base fee, unless covered under exemptions, as follows:

1. The base fee shall be levied upon every new business for the first year.
2. In the event that a business is sold or transferred to another person, a new license and base fee shall be required.
3. For each calendar year thereafter, an administrative annual renewal fee shall be levied on every licensed business. (Ord. 2012-08, 9-28-2012)

B. Disproportionate Service Fee Levied:

1. An additional regulatory fee shall be assessed to any business that requires an enhanced level of service or creates a disproportionate cost to the city.

C. Discounts Or Exemptions Granted Provisionally; Disallowance And Collection:

1. Any discount or exemption to the full payment of licensing fees authorized under this title is granted conditioned upon the licensee's initial and continued compliance with the provisions of such discount or exemption. If the discount or exemption was improperly granted in reliance upon false, inaccurate or misleading information provided by the licensee, or if the licensee has become otherwise unqualified to receive such discount or exemption during the licensing year, the business license official is authorized and directed to:

- a. Determine the discounted portion of the business license fee that was improperly granted or for which the licensee is unqualified;
- b. Notify the licensee by first class mail, postage prepaid, that the discount or exemption has been disallowed and the reasons therefor; and
- c. Proceed to collect the amount representing the disallowed discount or exemption.

2. The amount of such discount shall be considered to be delinquent if not paid within sixty (60) days after notification that the discount or exemption has been disallowed, or before renewal of the license, whichever occurs first. Failure to make payment for the full amount of the disallowed discount or exemption shall be grounds for revocation of the license.

3. The business license official's determination is subject to appeal pursuant to the provisions of this chapter.

D. Enumerated: The fees required by this title are set forth in the consolidated fee schedule adopted by the city council.

E. Exemptions:

1. Insurance Companies: Insurance companies shall obtain a license according to the provisions of this chapter but shall not pay a fee, pursuant to provisions of Utah code title 31A, chapter 9, as amended.

2. Nonprofit Organizations; Tax Exempt: No license fee shall be imposed under this chapter upon any person engaged in business solely for religious, charitable or other strictly nonprofit purposes if that person's activities are tax exempt under the laws of the United States and state of Utah; nor shall any license fee be imposed on any person engaged in a business specifically exempted from municipal taxation and fees by the laws of the United States or state of Utah. All such nonprofit organizations and organizations claiming to be tax exempt should fill out a no fee business license application form and submit a copy of said business tax exempt number, which will be placed on file with the no fee application.

F. Fee Additional To All Other Fees: The license fee imposed by this chapter shall be in addition to any and all other permits, taxes or licenses imposed by any other provisions of the ordinances of the city.

G. Declared Debt: Any license fee due and unpaid under this chapter and all penalties therein shall constitute a debt to the city and may be collected by court proceedings in the same manner as any other debt in like amount. This remedy shall be in addition to all other existing remedies.

4-1-10: LICENSE PERIOD:

A. Twelve Months: Except as set forth in subsection C of this section, all licenses shall be valid for a period of twelve (12) months from the date of issuance, and must be renewed on an annual basis to remain valid. **Consumer Fireworks Sales, Mobile Food Vendor Licenses and Temporary or Seasonal Merchants are non-renewable.** Annual renewal fees must be paid in full to the city not more than forty five (45) days after the first day of the twelfth month or the license is deemed expired.

B. Renewal: At the time of annual renewal, an inspection may occur to ensure compliance with the ordinances of the city. If any changes have been made to the business, a new license may be required.

C. Temporary, or Seasonal Merchant ~~Or Mobile Food Vendor License~~: A temporary or seasonal merchant's license ~~or mobile food vendor's license~~ shall be valid for a period of one hundred eighty (180) consecutive days.

4-1-11: DELINQUENT DATE AND LATE FEE:

A. Due Date And Late Fee: To maintain a valid business license, all licensing fees that are imposed by this chapter (except the initial license fee for a new business, out of city contracted services, **consumer fireworks**, temporary and seasonal merchant licenses, or mobile food vendor's licenses) shall be remitted to the city not more than forty five (45) days after the expiration date of the license. In the event the fee is not paid within the forty five (45) days, a late fee shall be imposed and shall become a part of the license fee levied by this chapter.

B. Final Notice: A final notice shall be sent to all licensees whose annual license fee remains unpaid one month after expiration. This notice shall state that unless the license fee is paid within the forty five (45) day renewal period a late fee shall be imposed and legal action may be initiated by the city for engaging in business without a valid business license. The notice shall

also set forth the amount of the penalty fee. Should it be necessary to take this matter to court, the business shall become responsible to reimburse the city for all attorney fees, court costs and any other expenses incurred by the city to clear up the account.

C. Engaging Without License: Should any person be found in the act of engaging in business without a license, the late fee specified by the consolidated fee schedule shall be added as a civil penalty to the base fee upon required application.

D. Failure To Renew: For purposes under this section, new business licenses will not be issued to applicants who have an outstanding account balance.

4-1-12: RULES AND REGULATIONS OF LICENSE AND LICENSEE:

A. Change In Business Location Or Name: In the event of a change in business name an amended license shall be required. The processing fee set forth in the consolidated fee schedule shall be required. In the event of a change in business location, a new license may be required.

B. Nontransferable: Licenses issued under this chapter shall not be transferable; in the event that a license is revoked, suspended, or otherwise invalidated under the provisions of this title, the fee paid by the licensee to the city shall be forfeited.

C. Duplicate License; Fee: The business license official shall require the fee specified by the consolidated fee schedule for each duplicate license issued to replace any license issued under the provisions of this chapter when the same has been lost or destroyed.

D. Refund: No portion of a license fee shall be refunded for any reason after the license has been issued.

E. Display Required: It is the duty of every licensee to keep this license displayed and exhibited while said business is current and valid. Every licensee not having a fixed place of business shall carry such license with him at all times while engaging in business for which the license is issued and shall produce said license for inspection when requested to do so by any person. The licensee shall not allow any license, special permit or insignia to remain displayed or used after the period for which it was issued has expired; or when it has been suspended or revoked, or for any other reason becomes ineffective. The licensee shall not loan, sell, give or assign to any other person, or allow any other person to use or display, or to destroy, damage or remove, or to have in his possession, except as authorized by the business license official, any license or insignia which has been issued to said licensee.

4-1-13: INSPECTIONS OF PREMISES:

A. Every licensee shall allow inspection of the licensed premises by any peace officer or other authorized city official during regular business hours. Further, it is unlawful for any door or other means of ingress or egress for the licensed premises to be locked or to prevent access by any peace officer or other authorized city official while the premises are occupied or open to the public. In addition to any other civil or criminal penalties associated with violations of this section, such violations shall also constitute grounds for revocation of any license issued under this chapter.

B. The business license official, all police officers and all other city officials having duties to perform regarding licenses and businesses shall be designated license inspectors and shall have and exercise the following powers and duties:

1. To enter free of charge at any reasonable time, any place of business and to demand the exhibition of said business license for current term from any person engaged or employed in the transaction of such business.

2. To examine all places of business where a license is required and to determine that at such place of business, no business other than the business described in and covered by the license is transacted.

3. To report to the business license official all persons doing business without a proper and valid license for such business.

4-1-14: FALSE INFORMATION PROHIBITED:

It is unlawful for any person to knowingly submit information which is false. (Ord. 2008-04, 7-22-2008)

4-1-15: PENALTY:

In addition to any late fees or civil penalties, any person who violates any provision of this chapter shall be guilty of a class B misdemeanor which is punishable as set forth in section [1-4-1](#) of this code. Each separate day a person violates any provision of this chapter shall be a separate violation.

Title 4 – Business and License Regulations, Chapter 5– Consumer Firework Sales is hereby amended to read as follows:

Chapter 5 Consumer Fireworks Sales

SECTION:

[4-5-1](#): Applicability

[4-5-2](#): License Required

[4-5-3](#): Definitions

[4-5-4](#): Enforcement

[4-5-5](#): Application For License

[4-5-6](#): Class C Fireworks

[4-5-7](#): Public Displays

[4-5-8](#): Rules And Regulations

[4-5-9](#): Unlawful Acts

[4-5-10](#): Excluded Businesses

[4-5-11](#): Penalty

4-5-1: APPLICABILITY:

In addition to all rules and regulations set forth in chapter 1 of this title, the regulations contained in this chapter will apply to fireworks stand licenses.

4-5-2: LICENSE REQUIRED:

It shall be unlawful for any person to engage in the business of selling consumer (class C, 1.4G) fireworks within the city without first obtaining the license required by this title.

4-5-3: DEFINITIONS:

In addition to the definitions set forth in other sections of this code, the following words and phrases used in this chapter shall have the meanings herein prescribed:

COMBINATION FIREWORKS DEVICE: Any device containing combinations of two (2) or more of the effects described in the definition of "ground or handheld sparkling device" or "ground audible device", as defined in this section.

FIREWORK: Any composition or device manufactured or used for the purpose of producing a visible or audible effect by combustion, deflagration or detonation, but does not include model rockets, toy pistol caps, emergency signal flares, snakes or flow worms, party poppers, wire sparklers under thirty six inches (36") in length, matches or class A and B explosives.

GROUND AUDIBLE DEVICE: Any paper or cardboard tube containing not more than fifty milligrams (50 mg) of pyrotechnic material that travels along the ground (chaser) upon ignition and often produces a whistling and/or popping effect.

GROUND OR HANDHELD SPARKLING DEVICE: A. Any cylindrical tube (cylindrical fountain) not exceeding three-fourths inch ($\frac{3}{4}$ ") inside diameter and containing not more than seventy five grams (75 g) of pyrotechnic composition which produces a shower of color and sparks upon ignition and may whistle or pop;

B. Any cardboard or heavy paper cone (cone fountain) containing up to fifty grams (50 g) of pyrotechnic composition which produces a shower of color and sparks upon ignition and may whistle or pop;

C. Any cylindrical tube (illuminating torch) containing up to one hundred grams (100 g) of pyrotechnic composition which produces colored fire upon ignition;

D. Any pyrotechnic device (wheel) capable of being attached to a post or tree containing up to six (6) (driver) units or tubes not exceeding one-half inch ($\frac{1}{2}$ ") in inside diameter that each contain not more than sixty grams (60 g) of pyrotechnic composition per driver unit which revolves upon ignition producing a shower of color and sparks and sometimes a whistling effect;

E. Any device similar in design and effect to a "wheel" capable of being placed on the ground (ground spinner) and ignited; and

F. Any narrow paper fuseless tube (flitter sparkler) filled with pyrotechnic composition that produces color and sparks when the popper at one end of the tube is ignited.

TRICK NOISEMAKER: A. Any tube or sphere containing pyrotechnic composition that upon ignition produces white or colored smoke (smoke device) as its primary effect; and

B. Any device that produces a small report intended to surprise the user, including:

1. A "booby trap" which is a small tube with a string, protruding from both ends that ignites the friction sensitive composition in the tube when the string is pulled;

2. A "snapper" which is a small paper wrapped device containing a minute quantity of explosive composition coated on bits of sand which explodes producing a small report;

3. A "trick match" which is a kitchen or book match coated with a small quantity of explosive or pyrotechnic composition that produces a small shower of sparks when ignited;

4. A "cigarette load" which is a small wooden peg coated with a small quantity of explosive composition that produces a small report when the cigarette is ignited; and

5. An "auto burglar alarm" which is a tube which contains pyrotechnic composition that produces a loud whistle and smoke when ignited. A small quantity of explosive, not exceeding fifty milligrams (50 mg), may also be used to produce a small report. A squib is used to ignite the device.

4-5-4: ENFORCEMENT:

A. Authority: Every county or municipal officer charged with the enforcement of state and municipal laws, including all fire enforcement officials, are charged with the responsibility to enforce this chapter.

B. Seizure And Destruction: Fireworks sold or offered for sale in violation of this chapter may be seized and destroyed and any license of the person selling or offering fireworks for sale may be revoked.

4-5-5: APPLICATION FOR LICENSE:

All applications for a consumer fireworks sales license shall be made in writing upon the form provided by the city and shall show the information required by chapter 1 of this title. The following shall also be provided:

A. Fee; ~~Cleaning Deposit~~: The license fee ~~and cleaning deposit~~ specified by the consolidated fee schedule. ~~The deposit may be refunded upon site cleaning to the satisfaction of the city.~~

B. Location: Set forth the proposed location of the temporary stand or indoor sales location.

C. Insurance Certificates: Include for delivery to the city recorder, insurance certificates evidencing public liability coverage in favor of the applicant in the amount as established by the consolidated fee schedule; and property damage coverage in favor of the applicant in the amount

as established by the consolidated fee schedule. Said insurance certificate shall include a minimum of ~~one~~ **three** million dollars (\$~~1~~**3**,000,000.00) product liability coverage.

D. Agreement To Comply: Include a statement that the licensee agrees to comply strictly with the terms of any license granted and to furnish any additional information upon request.

E. Sales Tax Permit: Include a **temporary** sales tax permit.

F. Written Permission From Property Owner: A copy of a valid lease or written permission from the property owner allowing the temporary or seasonal merchant or mobile food vendor to conduct business on the property.

G. Access To Restroom Facility: Written permission granting use of an existing restroom facility on or nearby the property within three hundred feet (300') of the business location, which shall be available during all hours of operation.

H. Site Plan: A site plan, drawn to scale, showing the property and its existing features (i.e., buildings, parking stalls, drive aisles, sidewalks, fire hydrants); the exact location of the vendor in relation to buildings, sidewalks, roadways, driveways, fire hydrants and other important features on the property; all components of the business with sizes/dimensions (i.e., temporary structure, storage bin, trash receptacle, required parking stalls); and photographs and/or illustrations showing all components of the business (i.e., temporary structure, storage bin, trash receptacle, signage). The site plan and photographs/illustrations shall include all information necessary to show compliance with the applicable zoning requirements set forth in title 11 of this code.

I. Electrical Plan: If power is required for the business, an electrical plan showing the power source, how it is connected to the temporary structure, how it is protected from the elements, wire size and location. If it is a new power source, an electrical permit must be obtained from the city.

4-5-6: CLASS C FIREWORKS:

A. Hazard Not Created: No amount of retail storage or retail sales of class C fireworks shall, by its presence, create a distinct hazard to the life, safety of the customer, employee or property.

B. Indoor Sales: Properly licensed, retail class C fireworks sales may be conducted indoors inside permanent structures. These structures must be a nonmovable building, securely attached to a foundation, housing a business licensed to sell merchandise in addition to fireworks. In all retail sales locations in permanent structures, the area where fireworks are displayed or stored shall be at least fifty feet (50') from any flammable liquid or gas, or other highly combustible material. Fireworks shall not be stored (including stock for sale) near exit doorways, stairways or in locations that would impede egress.

C. Temporary Stands And Trailers: Properly licensed retail, class C fireworks sales may be conducted from a temporary stand or trailer which is a nonpermanent structure used exclusively for the sale of fireworks. Such sales must be subject to the following requirements:

1. Exit Doors: Each stand or trailer shall have a minimum of two (2) approved exit doors which swing out at opposite ends of the stand. Door locking devices, if any, shall be easily released from the inside without special knowledge, key or effort.
2. Aisle: Each stand or trailer shall have a minimum three foot (3') wide unobstructed aisle, running the length of the stand or trailer, inside and behind the counter.
3. Prevention Of Customer Touching Or Handling: The pass-through openings for sales of fireworks in stands or trailers shall be arranged to permit the customer to view the merchandise for sale but prevent the touching or handling of nonprepackaged fireworks by the customer.
4. Zoning: Temporary stands or trailers for the sale of fireworks shall be located in properly zoned areas, at least twenty five feet (25') from other fireworks stands or trailers, LPG, flammable liquid or gas storage and dispensing units.
5. Locking Devices: If the stand or trailer is used for the overnight storage of fireworks, it shall be equipped with suitable locking devices to prevent unauthorized entry.
6. Illumination Or Heating: Stands or trailers shall not be illuminated or heated by any device requiring an open flame or exposed heating elements. All heaters and lighting devices shall be approved by the authority having jurisdiction.
7. Entrance By General Public: The general public shall not be allowed to enter a temporary stand or trailer.
8. Location And Removal Of Stand: Temporary stands and trailers shall be located on site no earlier than fourteen (14) days before the first date of authorized sale, and shall be removed no later than five (5) days after the final date of authorized sale.

~~9. Deposit Or Bond: Prior to the issuance of a license, each licensee for a temporary stand or trailer shall file with the business license official a cash deposit, certificate of deposit or surety bond made payable to the city, in the amount specified by the consolidated fee schedule to assure compliance with the provisions of this section, including, but not limited to, the removal of the stand and the cleaning of the site. In the event the licensee does not comply or remove the stand or clean the site, the city may do so, or cause the same to be done by other persons and the reasonable cost shall be a charge against the licensee and his deposit or surety bond.~~

4-5-7: PUBLIC DISPLAYS:

A. Permit Required: The city may, upon application in writing, upon the posting of a suitable bond, grant a permit for the public display of fireworks by religious, fraternal or civic organizations, fair associations, amusement parks or other organizations. The city council is authorized to grant such permission by resolution when such display is handled by a competent operator, who shall be approved by the chief of police. The chief of police may consult with the fire marshal in making his or her decision. Such display shall be of such a character and so located, discharged or fired as in the opinion of the chief of police and the fire marshal, after proper inspection, shall not be hazardous to property or endanger any person or persons. After

such permit shall have been granted, sales, possession, use and distribution of fireworks for such display shall be lawful for that purpose only.

B. Application For Permit: All such applications for permits shall set forth the date, the hour and place of making such display and the place of storing fireworks prior to the display; and further, the name of the person making the display; and the name of the person in charge of the igniting, firing, setting off, exploding or causing to be exploded such fireworks. The location of the storage place shall be subject to the approval of the chief of police, who may consult with the fire marshal. No permit granted hereunder shall be transferable.

C. ~~Bond-Or~~ Liability Insurance: Any application for a permit as herein provided shall be accompanied by a certificate of insurance naming Clearfield City as an additional insured. Such insurance shall be in a sum not less than \$3,000,000 per occurrence and aggregate for bodily injury, property damage, personal & advertising injury and products & completed operations liability. No city officer or licensing agent or other representative of the city shall in any event issue any permit hereinabove referred to until such certificate of insurance has been furnished and passed upon by the city attorney or designee as to form and sufficiency.

~~Any application for permit as herein provided shall be accompanied by a certificate of insurance insuring the licensee and naming the city as an additional insured, conditioned for the payment of all damages which may be caused either to a person or to property by reason of the display so licensed and arising from any acts of the licensee, his agents or employees. Such insurance shall be in a sum not less than one hundred thousand dollars (\$100,000.00) per person and three hundred thousand dollars (\$300,000.00) per occurrence for bodily injury, and fifty thousand dollars (\$50,000.00) per person and one hundred thousand dollars (\$100,000.00) per occurrence for property damage and no city officer or licensing agent or other representative of the city shall in any event issue any permit hereinabove referred to until such certificate of insurance has been furnished and passed upon by the city manager and the city attorney as to form and sufficiency.~~

4-5-8: RULES AND REGULATIONS:

All retail sales of consumer fireworks authorized by this chapter shall be subject to the following rules and regulations:

A. Authority: The city council may adopt rules establishing minimum safety standards, reasonable under the circumstances, for the retail storage, retail handling and retail sale of common fireworks.

B. ~~Sign Posted: Dates Authorized:~~

~~1. Sales: Fireworks may be sold on or between June 20 and July 25; or between December 20 and January 2; and fifteen (15) days before and on the Chinese New Year.~~

~~—2. Discharge: Fireworks may be discharged three (3) days prior to, on the day of and three (3) days following July 4, July 24, January 1 and the Chinese New Year.~~

~~—3. Sign Posted:~~ A sign, clearly visible to the general public, shall be posted at all fireworks sales locations indicating the legal dates for discharge of fireworks.

C. Supervision: All fireworks retail sales locations shall be under the direct supervision of a responsible person who is sixteen (16) years of age or older. A salesperson shall remain at the sales location at all times, unless suitable locking devices are provided to prevent the unauthorized access to the merchandise by others, or the merchandise shall be removed.

D. Sales To Minors: Fireworks shall not be sold to any person under the age of sixteen (16) years, unless accompanied by an adult.

E. Building Construction: Buildings and temporary stands or trailers for the retail sales of fireworks shall be constructed in compliance with local regulations or if none, in accordance with nationally recognized good practice.

F. Combustible Materials Cleared: All retail sales locations shall be kept clear of dry grass or other combustible material for a distance of at least twenty five feet (25') in all directions.

G. Storage Within Residential Areas: Storage of fireworks for sale shall not be located in residential areas.

H. Smoking: Smoking shall not be permitted within fifty feet (50') of any fireworks, either on display for retail sale or being stored. "Smoking Prohibited Within 50 Feet" (or similar wording) signs shall be conspicuously posted at all sales and storage locations.

I. Fire Extinguisher: All retail sales locations shall be equipped with an approved, portable fire extinguisher having a combined rating of at least 2A:10BC, or as required by the authority having jurisdiction.

4-5-9: UNLAWFUL ACTS:

A. Sales, Possession Or Discharge Of Specific Fireworks: It is unlawful for any person to sell or offer for retail sale, or to possess or to discharge any fireworks in the city other than those defined as "ground or handheld sparkling device", "ground audible device", "combination fireworks device" or "trick noisemaker", as defined in section [4-5-3](#) of this chapter.

B. Sparklers Within Specific Distance: It shall be unlawful for any person to ignite, explode, project or otherwise fire or use, or permit the ignition, explosion or projection of any sparkler upon, over or onto the property of another.

C. Possession Or Discharge Of Fireworks On Public Property: It is unlawful for any person to possess or to discharge any fireworks on any public property. Public property includes, but is not limited to, schools, city parks, the Clearfield City building, any other property owned by the city or any other public entity. This subsection shall not apply to events provided by or authorized by Clearfield City.

4-5-10: EXCLUDED BUSINESSES:

This chapter does not apply to the product inventories of fireworks manufacturers, importers, distributors or wholesalers designated for shipment directly out of the city. Nothing in this chapter shall supersede the provisions of section 23-13-7, Utah Code Annotated.

4-5-11: PENALTY:

Any person violating any of the provisions of this chapter shall be deemed guilty of a class B misdemeanor and subject to penalty as provided in section [1-4-1](#) of this code.

Title 4 – Business and License Regulations, Chapter 7– Rental Dwellings is hereby amended to read as follows:

Chapter 7 Rental Dwellings

[4-7-1](#): Applicability

[4-7-2](#): License Required

[4-7-3](#): Application For License

[4-7-4](#): Review And Approval Procedures

[4-7-5](#): Rules And Regulations

[4-7-6](#): Inspections

[4-7-7](#): Fees

~~[4-7-8](#): Good Landlord Incentive Program~~

[4-7-9](#): Penalty

4-7-1: APPLICABILITY:

In addition to all rules and regulations set forth in chapter 1 of this title, the regulations contained in this chapter shall apply to rental dwelling licenses.

4-7-2: LICENSE REQUIRED:

It shall be unlawful for any person, as owner, lessee or agent thereof, to keep, conduct, operate or maintain any rental dwelling within the city without first obtaining the license required by this chapter.

4-7-3: APPLICATION FOR LICENSE:

A. All applications for a rental dwelling license shall be made in writing upon the forms provided by the city. In addition to the information required by chapter 1 of this title, an application for a rental dwelling license shall also show:

1. A record, including the address, of each rental dwelling unit owned by the applicant.
2. A valid e-mail address for the owner ~~or and~~ property manager of each rental dwelling ~~unit~~ license.
3. A signed statement certifying the rental dwelling unit's compliance with applicable safety and building code, ~~zoning ordinances, property maintenance regulations, fit premises regulations, property maintenance code, housing codes, health codes etc. and the premises must be kept free of any public nuisance as defined by city ordinance or state law.~~

~~B. Applicants who desire to participate in the city's good landlord program shall also complete and submit the good landlord program agreement, which shall be provided by the city.~~

4-7-4: REVIEW AND APPROVAL PROCEDURES:

The process for review and approval of an application for a rental dwelling license shall be in accordance with chapter 1 of this title.

4-7-5: RULES AND REGULATIONS:

A. One License: Only one rental dwelling license shall be required for each person or entity owning rental dwelling units within the city.

B. Amendment To License: Any licensee who acquires or sells any rental dwelling unit within the city after licensure but before renewal shall amend the license within thirty (30) days of acquisition or sale of the rental dwelling unit ~~and shall pay the fees required by this title.~~

4-7-6: INSPECTIONS:

A. The business license official or their designee shall be permitted to make an inspection of any rental dwelling unit to enforce any of this title or any other applicable statute or ordinance, and may enter the building or may enter upon the premises during regular business hours; or, if there are no regular business hours, the business license official or their designee shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If the property owner or other responsible person refuses to allow an inspection, the business license official or their designee may obtain and execute a search warrant.

B. No owner, occupant, or any other person having charge, care, or control of any building or premises shall fail or neglect, after proper request is made as herein provided, to properly permit entry therein by the business license official or their designee for the purpose of inspection and examination to ensure compliance with this title.

4-7-7: FEES:

A. The fees for a rental dwelling license shall be in accordance with the city's current consolidated fee schedule as approved by the city council.

~~B. A disproportionate service fee shall be paid for each rental dwelling unit in accordance with the current consolidated fee schedule. A disproportionate service fee shall not be charged for an owner-occupied unit in a multi-unit building.~~

~~C. Members of the city's good landlord incentive program shall be eligible for a discount on the disproportionate service fee.~~

~~4-7-8: GOOD LANDLORD INCENTIVE PROGRAM:~~

~~A. The city shall establish a good landlord incentive program that provides discounts toward the payment of certain business licensing fees to owners of rental dwelling units who actively implement those aspects of the program determined by the city to be related to the control and~~

~~prevention of illegal activity on rental dwelling units, and who keep their properties free of code violations that affect the quality of life within the city. All applicants for a rental dwelling license shall be informed of the availability of the program.~~

~~—B. No discount shall be provided to any landlord unless and until the city certifies that the requirements of this section and all other requirements of the good landlord incentive program have been met.~~

~~—C. No landlord shall qualify for discounts under the good landlord incentive program unless all of the following minimum requirements are met at the time of application for a rental dwelling license:~~

~~—1. The landlord, or the landlord's bona fide agent for all aspects of property management, and all managers of the landlord responsible for the day to day management of the rental dwelling units, shall attend and complete an acceptable landlord training program once every two (2) years.~~

~~—a. First time applicants to the good landlord incentive program shall be required to complete the training within six (6) months of the date of application.~~

~~—b. Failure to complete the program within the time frame specified in subsection C1a of this section shall be grounds for disqualification from the program.~~

~~—c. Any landlord previously disqualified from the good landlord incentive program shall be required to show evidence of completion of the training program and compliance with the provisions of this code at the time of reapplication to the good landlord incentive program.~~

~~—2. The landlord shall implement and maintain those aspects of property management determined by the city to be related to the control and prevention of illegal activity on rental property.~~

~~—3. The rental dwellings and the surrounding premises must be owned and maintained in compliance with city ordinances affecting the use, care or maintenance of real property (zoning ordinances, property maintenance regulations, fit premises regulations, property maintenance code, housing codes, health codes, etc.), and the premises kept free of any public nuisance as defined by city ordinance or state law; provided, however, that a landlord will be considered to be in compliance with this requirement if violations are corrected in the time frame required under any notice of violation.~~

~~—4. The landlord shall have paid any outstanding civil penalty assessed against the landlord for failing to correct a notice of violation applicable to the landlord's rental dwelling.~~

~~—D. The annual discount allowed under the program against the payment of business licensing fees attributable to rental dwellings shall be in accordance with the city's current consolidated fee schedule.~~

~~—E.—The discount provided herein is conditioned upon the landlord's compliance with the requirements of the program during the term of the licensing year for which the discount is granted.~~

~~—1.—If it is determined that a landlord, or any of a landlord's rental dwelling units, is not in compliance with the requirements of the good landlord incentive program during any portion of the licensing period for which a discount was provided, the landlord, together with all his or her rental dwelling units, shall be disqualified from the program, and the discount shall be disallowed in accordance with the provisions of chapter 1 of this title for the entirety of the term of such license. The landlord shall be required to pay the full fee for every rental dwelling unit listed on their license application for that year.~~

~~—2.—After disqualification, the landlord may qualify for the program in the next licensing year only if the landlord has corrected the problems leading to the disqualification and paid all amounts disallowed in the prior year.~~

4-7-9: PENALTY:

Any person violating any of the provisions of this chapter shall be guilty of a class B misdemeanor and subject to penalty as provided in section [1-4-1](#) of this code. Each separate day a person violates any provision of this chapter shall be a separate violation.

Title 4 – Business and License Regulations, Chapter 10– Retail Tobacco Specialty Licenses is hereby amended to read as follows:

Chapter !0 Retail Tobacco Specialty Licenses

SECTION:

[4-10-1](#): Applicability

[4-10-2](#): License Required

[4-10-3](#): Definitions

[4-10-4](#): Review And Approval Procedures

[4-10-5](#): Rules And Regulations

[4-10-6](#): Denial Or Revocation

[4-10-7](#): Penalty

4-10-1: APPLICABILITY:

In addition to all rules and regulations set forth in chapter 1 of this title, the regulations contained in this chapter shall apply to retail tobacco specialty businesses.

4-10-2: LICENSE REQUIRED:

It is unlawful for any person to engage in the business of conducting a retail tobacco specialty business within the city without first obtaining the licenses required by this chapter and chapter 1 of this title. ~~Except as provided in subsection A of this section, and beginning July 1, 2012, a business entity that conducts a retail tobacco specialty business within the city shall be licensed.~~

A. Pursuant to Utah Code Annotated section 10-8-41.6 (as amended), a retail tobacco specialty business that has a business license and is operating lawfully in a municipality on or before May 8, 2012, is not subject to additional zoning requirements exclusively applicable to retail tobacco specialty businesses as set forth in section [11-13-30](#) of this code.

B. A retail tobacco specialty business may maintain an exemption under subsection A of this section only if:

1. The business license is renewed continuously without relapse or permanent revocation;
2. The retail tobacco specialty license is not closed for business or otherwise suspends the sale of tobacco products for more than sixty (60) consecutive days;
3. The retail tobacco specialty business does not substantially change the business premises or its business operation; and
4. The retail tobacco specialty business maintains the right to operate under the terms of other applicable laws, including zoning ordinances, building codes, and the original business license issued prior to May 8, 2012.

4-10-3: DEFINITIONS:

In addition to the definitions set forth in other sections of this code, the following words and phrases used in this chapter shall have the meanings herein prescribed:

COMMUNITY LOCATION: A public or private kindergarten, elementary, middle, junior high, or high school, a licensed childcare facility or preschool, a trade or technical school, a church, a public library, a public playground, a public park, a youth center or other space used primarily for youth oriented activities, a public recreational facility, ~~or~~ a public arcade, ~~or a homeless shelter.~~

RETAIL TOBACCO SPECIALTY BUSINESS: A commercial establishment in which:

- A. Sales of tobacco products, electronic cigarette products, and nicotine products account for more than 35% of the total quarterly gross receipts for the establishment;
- B. 20% or more of the public retail floor space is allocated to the offer, display, or storage of tobacco products, electronic cigarette products, or nicotine products;
- C. 20% or more of the total shelf space is allocated to the offer, display, or storage of tobacco products, electronic cigarette products, or nicotine products;
- D. If the commercial establishment holds itself out as a retail tobacco specialty business and causes a reasonable person to believe the commercial establishment is a retail tobacco specialty

business or the retail space features a self-service display for tobacco products, electronic cigarette products, or nicotine products.

TOBACCO PARAPHERNALIA: Any equipment, product, or material of any kind which is used, intended to use, or designed for use to package, repack, store, contain, conceal, ingest, inhale, or otherwise introduce a cigar, cigarette, or tobacco in any form into the human body, including:

- A. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
- B. Water pipes;
- C. Carburetion tubes and devices;
- D. Smoking and carburetion masks;
- E. Roach clips: meaning objects used to hold burning material, such as a cigarette, that has become too small or too short to be held in the hand;
- F. Chamber pipes;
- G. Carburetor pipes;
- H. Electric pipes;
- I. Air driven pipes;
- J. Chillums;
- K. Bongs; and
- L. Ice pipes or chillers,

but not including matches or lighters.

TOBACCO PRODUCT: Any cigar, cigarette, ~~or electronic cigarette as defined in Utah Code Annotated 76-10-101; or a tobacco product as defined in Utah Code Annotated 59-14-102,~~ including: tobacco in any form including chewing tobacco; or any substitute for a tobacco product, including flavoring or additives to tobacco; ~~and tobacco paraphernalia as defined in Utah Code Annotated 76-10-104.1.~~

4-10-4: REVIEW AND APPROVAL PROCEDURES:

The process for review and approval of an application for a retail tobacco specialty business license shall be in accordance with chapter 1 of this title. The following shall also be provided:

A. A site plan, drawn to scale, shall include all information necessary to show compliance with the applicable zoning requirements set forth in title 11 of this code, including the following:

1. Location of the proposed business that includes adjacent properties within one thousand five hundred feet (1,500') of business.

2. All adjacent properties shall be labeled with the existing business name and/or use.

3. If a community location, agricultural or residential use, or other retail tobacco specialty businesses are located within one thousand feet (1,000') or less, then dimensions on the site plan shall be provided.

a. The measurements will be taken from the nearest entrance of the retail tobacco specialty business to the nearest property boundary of the community location, agricultural or residential use, or other retail tobacco specialty business, without regard to intervening structures or zoning districts.

4. A valid permit for a retail tobacco specialty business issued by the local health department.

5. A valid license issued by the State Tax Commission to sell either tobacco products, electronic cigarette products or nicotine products as defined in Utah Code Annotated 10-8-41.6(9) as amended.

4-10-5: RULES AND REGULATIONS:

A. Compliance With Zoning Regulations: Each retail tobacco specialty license shall comply with the applicable zoning requirements set forth in title 11 of this code.

B. Providing Tobacco Products To Minors: It is unlawful for any person to knowingly, intentionally, recklessly, or with criminal negligence provide any tobacco product to any person under ~~nineteen (19)~~ twenty-one (21) years of age. Any person who violates this subsection is guilty of a class C misdemeanor on the first offense, a class B misdemeanor on the second offense, and a class A misdemeanor on subsequent offenses.

C. Providing Tobacco Paraphernalia To Minors: It is unlawful for a person to, knowingly, intentionally, recklessly, or with criminal negligence provide any tobacco paraphernalia to any person under ~~nineteen (19)~~ twenty-one (21) years of age. Any person who violates this subsection is guilty of a class C misdemeanor on the first offense and a class B misdemeanor on subsequent offenses.

4-10-6: DENIAL OR REVOCATION:

In addition to the reasons set forth in chapter 1 of this title for denial or revocation of a license, the business license official may deny or revoke a retail tobacco specialty license:

A. If a licensee engages in a pattern of unlawful activity under Utah code, title 76, chapter 10, part 16, pattern of unlawful activity ~~aet.~~

B. If a licensee violates the regulations restricting the sale and distribution of cigarettes and smokeless tobacco to protect children and adolescents issued by the United States food and drug administration, 21 CFR part 1140; or

C. Under other provisions of state law, ~~county~~ or city ordinance.

4-10-7: PENALTY:

Unless otherwise specified, any person violating any of the provisions of this chapter shall be guilty of a class B misdemeanor and subject to penalty as provided in section [1-4-1](#) of this code. Each separate day a person violates any provision of this chapter shall be a separate violation.

Title 4 – Business and License Regulations, Chapter 12– Massage Businesses is hereby amended to read as follows:

Chapter 12 Massage Businesses

Article I. General Provisions

SECTION:

[4-12-1](#): Findings And Purpose

[4-12-2](#): Administration And Enforcement

[4-12-3](#): Definitions

[4-12-4](#): Transfer Of License; Sale Of Massage Business

~~[4-12-5](#): Summary Criminal History Information Repealed.~~

Article II. Massage Business License

[4-12-6](#): Massage Business License Required; Exemptions

[4-12-7](#): Application For Massage Establishment, Sole Massage Therapist Establishment, Or Outcall Massage Service License

[4-12-8](#): Requirements For Massage Facilities

[4-12-9](#): Referral Of Massage Establishment And Sole Massage Therapist Establishment License Applications To Other Departments; Police Department Notification

[4-12-10](#): Issuance Of Massage Establishment, Sole Massage Therapist Establishment, Or Outcall Massage Service License

[4-12-11](#): Operating Requirements

[4-12-12](#): Inspection

[4-12-13](#): Suspension Or Revocation Of Massage Establishment, Sole Massage Therapist Establishment, Or Outcall Massage Service License

Article III. Fees

[4-12-14](#): Massage Establishments, Sole Massage Therapist Establishment, And Outcall Massage Service Fees; Reinspection Fees

Article IV. Enforcement And Penalties

[4-12-15](#): Notice Of Business License Violation

[4-12-16](#): Business License Violation; Hearing And Appeal

[4-12-17](#): Appeal Of Final Determination Of Business License Violation

[4-12-18](#): Violations And Administrative Penalties

[4-12-19](#): Enforcement

[4-12-20](#): Cooperative Efforts With Law Enforcement

[4-12-21](#): Undertaking For The General Welfare

[4-12-22](#): Severability

[4-12-23](#): No Conflict With State Or Federal Law

4-12-1: FINDINGS AND PURPOSE:

A. Massage professionals and businesses providing massage therapy promote public health and well-being with therapeutic practices that temper aches and pains, ease stress, reduce blood pressure, and provide other valuable health benefits.

B. In communities across the United States, illicit massage businesses are known venues for human trafficking. Traffickers in these venues commonly operate by opening establishments that are disguised as legitimate massage or bodywork businesses. In the process, they secure legally required licenses and licensure to conceal their actual activities: sex trafficking and/or forced labor. As a result, these human trafficking venues are blending in with and operating next to other legitimate businesses in urban business districts, suburban strip malls, and rural towns throughout the U.S.

C. The city does not conflate these illicit businesses with legitimate massage businesses and massage practitioners. This chapter seeks to exercise the city's authority to regulate both massage practitioners and massage businesses in such a way as to support and encourage legitimate massage practitioners and massage businesses, while discouraging illicit massage businesses and removing all illicit massage business from the city.

4-12-2: ADMINISTRATION AND ENFORCEMENT:

This chapter shall be administered through the business license official for Clearfield city. Enforcement may include all available administrative, civil, and/or criminal remedies available pursuant to local, state, or federal laws.

4-12-3: DEFINITIONS:

For the purposes of this chapter:

ADMINISTRATIVE HEARING OFFICER: The person appointed by the city manager to preside and conduct a business license violation appeal hearing under this chapter.

The hearing officer may be a department head, other than the supervisor of the business license official, or a non-city employed person with requisite skill and experience.

BUSINESS LICENSE OFFICIAL: The business license official of Clearfield city, or any individual designated by the business license official to act on his or her behalf.

CITY: Clearfield city.

CITY MASSAGE THERAPIST IDENTIFICATION BADGE: That badge which is issued by the city to a licensed massage therapist that will provide massage services in a massage establishment.

COMPENSATION: A payment, loan, advance, donation, contribution, deposit, forgiveness of debt, or gift of money or anything of value.

CONVICTED: Having pled guilty or having received a verdict of guilty, including a verdict following a plea of nolo contendere or no contest to a crime, as well as entering into a plea held in abeyance or in a diversion, or any other similar type of plea agreement.

DEPARTMENT: The city's licensing division.

DOPL: The Utah Division of Occupational and Professional Licensing, which is located within the Department of Commerce and is legislatively charged to administer and enforce specific laws related to the licensing and regulations of certain occupations and professions, including massage.

INSPECTOR: A department employee responsible for conducting inspections on behalf of the department.

LICENSED MASSAGE THERAPIST: An individual who administers massage for compensation and holds a valid and active license to practice massage issued by DOPL, including those individuals that have a DOPL license as a massage apprentice.

MASSAGE: Any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating the external soft pads of the body with the hands or with the aid of any apparatus or appliance.

MASSAGE BUSINESS: Massage establishment, outcall massage service, and sole massage therapist establishment, collectively.

MASSAGE ESTABLISHMENT: A fixed place of business where more than one individual administers massage for compensation, excluding those locations where massage is provided only on an outcall basis.

OUTCALL MASSAGE SERVICE: Any business other than a massage establishment or sole massage therapist establishment that provides massage for compensation at a location designated by the client rather than on its premises.

OWNER: Any individual, partnership, firm, association, corporation, or combination of individuals of whatever form or character with an ownership interest in a business that provides massage services.

SOLE MESSAGE THERAPIST ESTABLISHMENT: A fixed place of business solely owned by a massage therapist, which individual is the only person who provides massage for compensation.

SOLE PRACTITIONER: A licensed massage therapist who provides massage for compensation without any partners, associates, or employees, and absent any business relationship with a massage establishment.

4-12-4: TRANSFER OF LICENSE; SALE OF MESSAGE BUSINESS:

A. No license issued by the city under this chapter shall be transferable under any circumstances, including but not limited to the sale of the massage business.

B. Upon the effective date of the sale of a massage business, the license for the massage business shall expire. If a licensee sells a massage business, the licensee shall promptly surrender the license to the business license official no later than the effective date of the sale. This obligation is not dependent on the business license official's requesting the surrender, but arises as a result of the sale of the massage business. If the licensee fails to surrender the license to the business license official as required by this subsection, the business license official may, after giving the licensee notice by mail or electronically of the proposed action and an opportunity to respond, establish that the license has expired and hence is not a valid license, and that it must be surrendered.

~~4-12-5: SUMMARY CRIMINAL HISTORY INFORMATION:~~

~~The business license official may require the submission of local, state, and federal level summary criminal history information for licensing, and/or certification of massage businesses and massage practitioners, and for the suspension or revocation of licenses, and/or certification of massage businesses and massage practitioners, and may not disseminate the information to a private entity. The business license official may not accept a summary report that is greater than three (3) months old prior to submission, and may require a summary report to be updated at any given time. Repealed.~~

Article II. Massage Business License

4-12-6: MESSAGE BUSINESS LICENSE REQUIRED; EXEMPTIONS:

A. License Required: It shall be unlawful for any owner of a massage establishment, sole massage therapist establishment, or outcall massage service to operate that massage business at any location in the city without first obtaining a license for such massage business from the business license official. In the event that a business owner or operator disclaims that the

business is a massage business, the business license official may hold a hearing to determine whether a license under this chapter is required.

B. Exemptions: The following businesses may provide massage services without obtaining a massage business license:

1. Businesses providing massage services performed solely by physicians, surgeons, chiropractors, osteopaths, nurses, or any physical therapists, who are duly licensed to practice their respective professions in the state of Utah and persons working directly under the supervision of or at the direction of such licensed persons, working at the same location as the licensed person, and administering massage services subject to review or oversight by the licensed person.
2. Businesses providing massage services performed solely by barbers or cosmetologists who are duly licensed under the laws of the state of Utah, while engaging in practices within the scope of their licenses, and limited to the massaging of the neck, face, scalp, hands, or feet of the clients.
3. Hospitals, nursing homes, mental health facilities, or any other health facilities duly licensed by the state of Utah, providing massage services performed solely by their employees acting within the scope of their employment. (Ord. 2019-24, 9-10-2019)
4. An individual performing massage services who holds a valid license, permit, certificate, or registration, for massage services issued by any other jurisdiction of the United States or by a foreign country; or holds a certification from a nationally recognized massage therapy organization if the nonresident individual is from a jurisdiction of the United States that does not regulate massage and is temporarily performing massage services in this state for a period that does not exceed 30 days for the purpose of:
 - a. presenting educational or clinical programs, lectures, seminars, or workshops;
 - b. providing massage services during an emergency as part of a disaster response team;or
 - c. consulting with a licensed individual regarding massage services.

4-12-7: APPLICATION FOR MASSAGE ESTABLISHMENT, SOLE MASSAGE THERAPIST ESTABLISHMENT, OR OUTCALL MASSAGE SERVICE LICENSE:

A. Application Requirements: To apply for a massage establishment, sole massage therapist establishment, or outcall massage service license, the owner shall:

1. File an application with the business license official upon a form provided by the business license official;
- ~~2. Provide a complete set of fingerprints in the manner required by the business license official from any person with an ownership interest in the massage business for the purpose of undergoing a criminal background check;~~

~~32~~. Pay a non-refundable application fee, as set forth in the city's consolidated fee schedule; and

~~43~~. License inspection of any massage facilities proposed to be operated under the license by all relevant city departments, including but not limited to the department of building inspection, the planning department, and the fire department.

B. Applicant Information: The application form shall require the applicant to provide, under penalty of perjury, the following information:

1. The name(s), address(es), and any other identifying information regarding the owner(s) as requested by the business license official;

2. A description of all services to be rendered by the massage business;

3. The address of any facilities proposed to be operated under a massage establishment or sole massage therapist establishment license, and a copy of the rental agreement or lease showing the names of the landlord and all of the tenants or lessees who are parties to the rental agreement; or, if the owner owns the premises, a copy of the deed and a disclosure of any other person or entity with a shared ownership interest in the premises;

4. The number of individuals to be employed by the massage business, and, except in the case of a sole massage therapist establishment, the names and licenses of any massage therapists who shall operate under that license;

5. All licenses, certificates, or licenses related to the practice of massage or the operation of a massage establishment or massage service, currently or formerly held by an owner, issued in Clearfield city or elsewhere, including any discipline imposed by the issuing authority and a statement whether the license holder is currently the subject of a disciplinary process;

6. All felony or misdemeanor convictions for each person with an ownership interest in the massage business;

7. A floor plan of the proposed massage establishment, indicating the location of all massage treatment rooms, massage tables, massage chairs, and employee areas;

8. A certificate of insurance against liability for workers compensation or proof of self-insurance in accordance with the provisions of the Utah Labor Code; and

9. Any additional information as required by the business license official.

C. Organizational Owners: If the owner of the massage establishment or outcall massage service is or includes a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation together with the names and residence addresses of each of the officers, directors, and each stockholder holding more than ten percent (10%) of the stock of the corporation. If the owner is or includes a partnership, the application shall set forth the name and the residence address of each of the partners, including limited partners. If one or more of the partners is a corporation, the provisions of this section pertaining to corporate applicants applies. The applicant shall provide the information required in subsections ~~A2~~, B1, B5, and B6

of this section for each officer, director, and stockholder holding more than ten percent (10%) of the stock of the corporation, or for each partner, including limited partners.

D. Proof Of DOPL Certification For Sole Practitioners: In addition to the information required under subsection B of this section, an applicant for a sole massage therapist establishment license shall provide proof that he or she holds a current, valid DOPL certificate.

E. Deadline For Submission Of Supporting Documentation: After reviewing a massage business license application, the business license official shall notify the applicant in writing that the application is complete and accepted for further review, or incomplete. If the business license official deems the application to be incomplete, the applicant shall supply the information or documentation that is required for the application to be deemed complete. The applicant shall have thirty (30) calendar days from the date that the business license official provides notification that the application is incomplete to provide all required information and/or documentation. If the applicant does not provide such information within thirty (30) calendar days, the application will be deemed abandoned and will not receive further consideration. (Ord. 2019-24, 9-10-2019)

4-12-8: REQUIREMENTS FOR MASSAGE FACILITIES:

All proposed massage facilities must comply with the following requirements, and with any rules and regulations adopted by the business license official pursuant to section 4-12-2:

A. Toilet Rooms And Other Rooms: Toilet rooms shall be provided for clients in convenient locations.

1. Construction of rooms used for toilets, laundry, and mop sinks, as well as rooms used for tubs, wet tables, steam baths, saunas, and shower stalls, shall be made of waterproof, non-absorbent materials that are easily cleaned and shall be installed in accordance with the city's building regulations found in title 10, as well as all other applicable state or federal building regulations.

2. Plumbing fixtures in toilet rooms as well as rooms used for tubs, steam baths, and showers shall be installed in accordance with the International Plumbing Code, as adopted by the city in title 10, city's building regulations.

3. Urinals may be substituted for toilets after one toilet has been provided.

4. Doors to toilet rooms shall open inward.

B. Handwashing Facilities: Handwashing facilities shall be provided within or adjacent to the toilet rooms and shall be equipped with an adequate supply of hot and cold running water under pressure.

1. Handwashing facilities must provide liquid hand soap in a pump or a wall-mounted dispenser and sanitary wall mounted disposable paper towels.

2. Handwashing facilities shall be readily accessible to massage practitioners.

C. Light And Ventilation: All portions of the massage establishment shall be provided with adequate light by means of windows, skylights, or with an approved artificial light. Adequate ventilation shall be provided by means of windows or a mechanical operating ventilating system.

1. Toilet, dressing, and massage rooms shall be provided with at least one hundred eight (108) lux (ten (10) foot candles) of light.

2. All electrical equipment shall be installed in accordance with the requirements of the National Electric Code, as adopted by the city in title 10, city's building regulations. (Ord. 2019-24, 9-10-2019)

4-12-9: REFERRAL OF MASSAGE ESTABLISHMENT AND SOLE MASSAGE THERAPIST ESTABLISHMENT LICENSE APPLICATIONS TO OTHER DEPARTMENTS; POLICE DEPARTMENT NOTIFICATION:

A. Code Review: The business license official, within fourteen (14) calendar days of receiving an application for a license to operate a massage establishment or sole massage therapist establishment shall refer the application to the city department of building inspection and the city police, fire, and planning departments. Said departments shall inspect the facilities proposed to be operated as a massage establishment or a sole massage therapist establishment and shall make written findings to the business license official concerning compliance with codes that they administer.

B. Law Enforcement: The business license official shall notify the police department of all approved and denied massage business license applications. (Ord. 2019-24, 9-10-2019)

4-12-10: ISSUANCE OF MASSAGE ESTABLISHMENT, SOLE MASSAGE THERAPIST ESTABLISHMENT, OR OUTCALL MASSAGE SERVICE LICENSE:

A. Within sixty (60) calendar business days following receipt of a completed application for a massage business license, or, for applications subject to referral under section 4-12-9, within thirty (30) calendar days of receiving all written findings, whichever is later, the business license official shall either issue the license or mail a written statement of his or her reasons for denial thereof to the applicant. If the business license official takes neither action, the license shall be deemed issued.

B. No massage establishment, sole massage therapist establishment, or outcall massage service license shall be issued if the business license official finds:

1. The applicant has provided materially false information, documents, or testimony in support of the application or in any other matter before the business license official; or

2. The facilities as proposed by the applicant would not comply with all applicable laws including, but not limited to, the facilities requirements set forth in section 4-12-8, the city building, planning, housing, and fire codes, or any rule or regulation related to massage facilities adopted by the business license official pursuant to this chapter; or

3. Within thirty six (36) months prior to the application, the applicant has had any license or license of any kind suspended or revoked by the business license official; or

4. Prior to the date of application, the applicant has had any license, certificate, or license related to the practice of massage or operation of a massage establishment or massage service revoked; or

5. The applicant has been convicted of any of the following offenses, at any time prior to making application:

- a. Any offense involving the use of coercion, force, or violence upon another person; or
- b. Any misdemeanor sexual battery; or
- c. Any offense involving sexual misconduct with children; or
- d. Any offense involving pimping or pandering; or
- e. Any offense related to human trafficking; or

f. Any offense requiring registration pursuant to title 77, chapter 41 of the Utah Code Annotated; or

6. Sanitation violations pursuant to section 4-12-11A.

7. The business license official revoked permission to operate a massage business at the same location within the prior thirty six (36) months; or

8. The business license official finds that the premises or the massage business will be or is being managed, conducted, or maintained in such a manner as to endanger the health and safety of the employees or clients, or to coerce any employee to engage in illegal conduct; or

9. The applicant has not fully complied with the provisions of this chapter; or

10. The applicant has not demonstrated eligibility for a license under this chapter.

C. Right To Request For Reconsideration Of Denial By Business License Official: If an application for a massage establishment, sole practitioner massage establishment, or an outcall massage service permit is denied, the applicant may make a request for reconsideration to the business license official within fourteen (14) calendar days of the date listed on the notice of denial by notifying the business license official in writing and explaining the ground or grounds for reconsideration. Within ten (10) calendar days of receipt of the request for reconsideration, the business license official shall review the records, and at the discretion of the business license official, may hold a hearing to consider the request for reconsideration, before issuing a final written decision.

D. Right To Appeal Business License Official's Final Written Decision: If an application for a massage establishment, sole massage therapist establishment, or an outcall massage service license is denied after a business license official's request for reconsideration pursuant to division C, the applicant may appeal the denial to the city manager within fourteen (14) calendar days of

the date listed on the notice of denial by submitting a written notice of appeal to the city recorder. This appeal shall be a review of the written basis for appeal, any written response from the city, and the record. No testimony will be provided. The written appeal shall include the following:

1. A brief basis for appeal, no more than two (2) pages.

- a. The format for the written appeal shall be twelve (12) point font, double-spaced, on standard sized (eight and a half by eleven inch (8.5" x 11")) paper, with one inch margins;

2. A complete and accurate copy of all documents provided by the applicant to be considered during the business license official hearing; and

3. A complete and accurate copy of the business license official's final written decision from the request for reconsideration.

E. The city may or may not submit a written response within seven (7) calendar days to the "brief basis for appeal" under the length and formatting requirements set forth in division D1a.

F. The city manager shall make a written final determination. The city manager shall make this final determination not less than seven (7) calendar days, but no more than fourteen (14) calendar days from the date of a timely made appeal.

G. The failure of the city manager to provide a timely final determination as outlined above shall be considered an upholding of the business license official's final written decision. (Ord. 2019-24, 9-10-2019)

4-12-11: OPERATING REQUIREMENTS:

Massage establishments, sole massage therapist establishments, and outcall massage services must comply with the following operating requirements to the extent applicable:

A. Cleanliness And Hygiene: Massage facilities, including all appliances and apparatuses, shall be kept clean and operated in a sanitary condition.

1. Adequate and suitable space shall be provided for storage of clean linens, including, but not limited to, sheets, towels, and apparel.

2. Clean sheets and towels shall be provided, laundered after each use, and stored in a sanitary manner.

3. No towels or sheets shall be laundered or dried on the premises in the absence of suitable laundry facilities.

4. Smooth, cleanable, and appropriately labeled receptacles for the storage of soiled linens and towels shall be provided.

5. Soiled refuse shall be appropriately bagged and disposed of.

6. Wet and dry heat rooms, shower compartments, and toilet rooms shall be thoroughly cleaned each business day.

7. Bathtubs shall be thoroughly cleaned and sanitized after each use.

8. The facility shall be free of vermin, including, but not limited to, cockroaches, mice, rats, and other pests that carry disease.

B. Changing Area: A room, enclosure, or designated area shall be provided where clients can change and store their clothes.

C. Employee Area: A room, enclosure, or designated area that is separate from the toilet, massage room(s), steam room, or other common areas shared by the clients shall be made available to employees at all times. The employee area(s) shall be furnished with individual lockers and adequate storage space for employees' personal belongings. Members of the public may not have access to the employee area.

D. Employment Of Minors Prohibited: It shall be unlawful to employ any individual who is not at least eighteen (18) years of age.

E. Register Of Practitioners: Every massage establishment or outcall massage service that hires or contracts with individuals to provide massage services shall ensure at all times that each such individual holds a valid and current DOPL certificate, as well as a city massage therapist identification badge. The massage establishment or outcall massage service shall maintain a register of practitioners that includes each practitioner's DOPL certificate number and a copy of the city massage therapist identification badge, which shall be provided to the city, as well as available for inspection by the department at all times.

F. Therapist Conduct: Massage establishments shall be responsible for the conduct of all individuals providing massage for compensation on their business premises and shall ensure that such individuals properly display their city massage therapist identification badge at all times while on the premises of a massage establishment, as well as ensure that they do not wear improper attire or engage in lewd conduct, which is generally defined as, but not limited to, the following:

1. Required Attire: Massage practitioners shall remain fully clothed while administering massage or otherwise present in a part of the massage establishment to which the public has access (e.g., massage rooms, reception areas, publicly accessible restrooms), including premises designated by the client through an outcall massage service. The massage practitioner's attire shall not include: (1) attire that is transparent, see-through, or that substantially exposes the practitioner's undergarments; (2) swim attire, unless the massage therapist is providing a water-based massage modality that has been approved by DOPL; or (3) attire that exposes the individual's areolas, breasts, buttocks, or genitals.

2. Lewd Conduct Prohibited: Massage practitioners shall not engage in lewd conduct on business premises, including locations designated by the client through an outcall massage service. Lewd acts include, but are not limited to: the performance of acts or simulated acts of

sexual intercourse, masturbation, bestiality, copulation (oral, anal or vaginal), or flagellation; the actual or simulated caressing or fondling by one adult human being of the anus, genitals or breasts, of another adult human being; the actual or simulated displaying of the pubic hair, anus, vagina, penis, vulva, buttocks, areola, or any other external genitalia of the human body. The existence of clothing, a towel, or any other such matter material on or covering either or both the massage practitioner or client does not alleviate the above restricted conduct, nor is it a defense to prohibited conduct.

G. Locks: Doors that permit entry into any treatment room may not be equipped with locks or any device designed to prevent, impede, or delay entry into a room. Massage establishment exterior doors may be equipped with locks, but shall remain unlocked while the massage establishment is open. Exterior doors may remain locked while the massage establishment is open only if there is no more than one employee or independent contractor on the premises of the establishment, exclusive of the establishment owner.

H. No Alcohol Or Illegal Drugs Permitted On Premises: No alcoholic beverages or drugs may be sold, served, used, or possessed on business premises during business hours.

I. Human Trafficking Information Notices: Massage establishments must post in a conspicuous place near the public entrance of the establishment or in another conspicuous location in clear view of the public and employees, the following notice, which is provided by the city:

"If you or someone you know is being forced to engage in any activity and cannot leave- whether it is commercial sex, housework, farm work, construction, factory, retail, or restaurant work, or any other activity-text 233733 (Be Free) or call the National Human Trafficking Hotline at 1-888-373-7888 or the Utah Human Trafficking Tipline at 801-200-3443 to access help and services.

J. Residential Use: Massage facility premises shall not be used as a sleeping room or for any other residential purpose. A massage establishment shall be presumed to be used for residential purposes if any of the following items are maintained on the premises:

1. Beds or mattresses, other than professional massage tables;
2. Bedding, such as pillows, blankets, and sheets, other than those used for professional massage tables;
3. Sleepwear, including but not limited to, pajamas, nightgowns, and lingerie;
4. Groceries that require cooking, such as raw meats, poultry, fish, and grains; or
5. Clothing that exceeds one change of clothing for each employee or independent contractor who is present on the premises.

K. Establishment License To Be Displayed: Every license to operate a massage establishment or sole massage therapist establishment shall be displayed in a conspicuous place within the establishment such that the license may be readily seen by individuals entering the premises.

L. Outcall Massage Service License Subject To Inspection: Every license to operate an outcall massage service must be made available for inspection by the department at all times while providing massage services.

M. Hours Of Operation: No massage business shall operate or provide massage services, and no customer or person not employed or contracted by the massage business may be on the premises of a massage establishment, during the hours between ten o'clock (10:00) P.M. and seven o'clock (7:00) A.M.

N. Advertising: No massage business shall publish or distribute, or cause to be published or distributed, including on the internet, any advertising for services that would violate this chapter.

O. Operation Of Massage School Prohibited: No massage business shall operate a massage school or otherwise provide instruction in massage on the premises of a massage establishment. (Ord. 2019-24, 9-10-2019)

4-12-12: INSPECTION:

Any member of the department may inspect any massage establishment or sole massage therapist establishment to determine whether the establishment is operating in compliance with the provisions of local, state, or federal laws, or for the purpose of providing educational materials to employees of the establishment in culturally and linguistically appropriate languages regarding employee rights and information on a variety of resources, including linkage to health care services, victim services, and emergency numbers and hotlines to call for information and assistance. Nothing in this section shall be construed to limit or restrict the lawful authority of a police officer or other city employee to enter premises licensed under this chapter. (Ord. 2019-24, 9-10-2019)

4-12-13: SUSPENSION OR REVOCATION OF MASSAGE ESTABLISHMENT, SOLE MASSAGE THERAPIST ESTABLISHMENT, OR OUTCALL MASSAGE SERVICE LICENSE:

A. Grounds For Suspension Or Revocation: The business license official may revoke or suspend any massage establishment, sole massage therapist establishment, or outcall massage service license, if the business license official finds:

1. Facts sufficient to support the denial of such license on any ground set forth in section 4-12-10; or
2. The licensee or the licensee's agent, employee, or independent contractor has refused to permit a lawful inspection of its business premises or its operations, or has interfered with city staff in the performance of an inspection such as by threatening them, touching them, or intentionally delaying their entry to the premises of the massage business; or
3. The licensee or the licensee's agent, employee, or independent contractor has engaged in any conduct in connection with the operation of the business that violates the operating requirements set forth in this chapter, any rules or regulations related to massage business

operations, or any local, state or federal laws relating to the practice of massage or the operation of a massage business; or

4. The business license official determines that such massage business is being managed, conducted, or maintained without regard for public health or the health of clients or employees, or without due regard for proper sanitation and hygiene.

B. The business license official may not suspend or revoke a massage business license under this chapter until the business license official has issued a notice of business license violation and provided the massage business and the owner of the property upon which the massage business is located an opportunity to be heard and respond as provided in section 4-12-16.

C. Notwithstanding subsection B, the business license official may suspend summarily any massage business license issued under this chapter when, in the judgment of the business license official, a public health hazard requires such summary suspension, or the business license official deems the summary suspension to be in the best interest of the public. The business license official shall provide written notice of such summary suspension to the license holder pursuant to the service defined in section 1-16B-3. No more than three calendar days after written notice of such summary suspension is given, the (3) business license official shall issue a notice of business license violation identifying the alleged acts or failures to act that constitute the basis for the summary suspension, and provide the massage business an opportunity to be heard and respond as provided in section 4-12-16, as to why the summary suspension should end. However, the time for hearing and decision shall be accelerated as follows:

1. Upon a timely request for a hearing, the business license official shall set any requested hearing within fourteen (14) calendar days, unless time is extended by mutual agreement of the affected parties; and

2. The business license official, or designee, who shall have the same authority as the business license official to hear and decide the case, and make any orders consistent with this chapter, shall issue a decision on the summary suspension within seven (7) calendar days after hearing.

D. If the licensee appeals a decision by the business license official or designee upholding a summary suspension, the summary suspension shall remain in effect pending a final decision of the appeal. Where a license is revoked after a summary suspension, the revocation shall be effective immediately and, if the licensee further appeals, shall remain in effect pending a final decision of the appeal.

Article III. Fees

4-12-14: MESSAGE ESTABLISHMENTS, SOLE MESSAGE THERAPIST ESTABLISHMENT, AND OUTCALL MESSAGE SERVICE FEES; REINSPECTION FEES:

A. Massage Establishments: The application fee for a massage establishment license shall be set forth in the city's consolidated fee schedule. The annual license fee for a massage

establishment shall be set forth in the city's consolidated fee schedule. The fee shall be due annually.

B. Sole Massage Therapist Establishments: The application fee for a sole massage therapist establishment license shall be set forth in the city's consolidated fee schedule. The annual license fee for a sole massage therapist establishment shall be set forth in the city's consolidated fee schedule. The fee shall be due annually.

C. Outcall Massage Services: The application fee for an outcall massage service license shall be set forth in the city's consolidated fee schedule. The annual license fee for an outcall massage service shall be set forth in the city's consolidated fee schedule. The fee shall be due annually.

D. Exception: A licensed massage therapist holding a sole massage therapist establishment license shall not be required to pay any additional application or annual license fee for an outcall massage service license.

E. Reinspection Fees: If an inspection discloses a violation of any provision of this code or of any state law for which the city is responsible for enforcement, the city shall determine a period of time that is reasonable to correct the violation and shall thereafter reinspect the property to verify such correction. The term "reinspection" shall refer to any inspection by the department to verify whether an owner has corrected a violation. The massage business shall pay a fee as set forth in the city's consolidated fee schedule, to compensate the department for its costs in performing the reinspection. Reinspections that require more than one hour to complete shall be subject to an additional fee, as set forth in the city's consolidated fee schedule. If more than one reinspection is necessary to secure correction of a violation, the massage business shall pay a fee in the amount set forth herein for each reinspection. In the event that the massage business fails to pay any reinspection fee due under this section within thirty (30) days of the due date, the massage business must pay a late payment penalty, as set forth in the city's consolidated fee schedule and the city may collect the reinspection fee through the placement of a lien in the amount of the fee and any late payment penalty owed or delinquent, plus interest of one and a half percent (1.5%) per month, against the real property pursuant to the procedures set forth in section 1-16B-21, recovery of fees and costs.

Article IV.

4-12-15: NOTICE OF BUSINESS LICENSE VIOLATION:

A. If the business license official determines that a massage business is operating in violation of this chapter, (which is deemed in the entirety of this section to include a violation of a license condition and/or a violation of the rules and regulations adopted pursuant to this chapter), the business license official may issue a notice of business license violation to the massage business, the owner of real property where the violation occurred, and/or any other persons the business license official deems responsible for causing the violation.

B. The notice of business license violation shall include the following information:

1. That the business license official has made a determination the massage business has operated in violation of this chapter;

2. The alleged acts or failures to act that constitute the basis for the business license official's determination;

3. That the business license official intends to take enforcement action against the massage business, owner of real property, and/or any other person deemed responsible for causing the violation(s), and the nature of that action, including the administrative penalty and enforcement costs to be imposed, and/or the suspension or revocation of the massage establishment license(s);

4. That the massage business, owner of real property, and/or any other person deemed responsible for causing the violation(s) has the right to request a hearing before the administrative hearing officer for the city, and that said request for a hearing must be made in writing within ten (10) calendar days after the notice of business license violation is served. Service shall be in accordance with section 1-16B-3.

5. A sole practitioner renting or leasing to a sole practitioner is not liable for the actions of the sole practitioner to which the sole practitioner rents or leases so long as the sole practitioner:

a. verifies that the sole practitioner who is renting or leasing is a licensed massage therapist and in good standing in the state of Utah at the time of the rental or lease;

b. obtains a signed attestation from the sole practitioner who is renting or leasing that the sole practitioner has no business arrangement with the licensed individual other than a rental or lease; and

c. produces copies of the following if requested by the city:

d. the sole practitioner's state massage license;

e. the sole practitioner's signed attestation described in subsection (2); and

f. the rental agreement.

C. If no request for a hearing is filed with the business license official within the appropriate period, the right to request a hearing shall be deemed waived, and the business license official's determination shall become final and effective ten (10) calendar days after the notice of business license violation is served. The business license official shall issue an order imposing the enforcement action, and shall send the order to the persons served with the notice of business license violation. In subsequent civil proceedings, such violations shall be deemed not to have been corrected. Where no hearing is timely requested, an order suspending or revoking a license is final. The failure of the person on whom the notice of business license violation is served to request a hearing shall constitute a failure to exhaust administrative remedies and shall preclude the person from obtaining judicial review of the validity of the enforcement action. (Ord. 2019-24, 9-10-2019)

4-12-16: BUSINESS LICENSE VIOLATION; HEARING AND APPEAL:

A. Purpose: The city finds that there is a need to establish uniform procedures for business license hearings conducted pursuant to this chapter. It is the purpose and intent of the city to afford due process of law to any person who is directly affected by a business license violation. Due process of law includes notice, an explanation of the accusations, and an opportunity to be heard prior to imposition of a penalty. These procedures are also intended to establish a forum to efficiently, expeditiously, and fairly review and resolve issues raised in any notice of business license violation.

B. Request For Business License Violation Appeal Hearing:

1. An owner of a massage business has the right to request a business license violation appeal hearing by filing a written request and paying the required filing fee, if the request is filed within ten (10) calendar days after the notice of business license violation is served.

2. As soon as practicable after receiving a request for hearing, the city manager or his or her designee shall arrange for and appoint an administrative hearing officer, and the administrative hearing officer will schedule a date, time, and place for the hearing, and will serve written notice of the same to all known owners.

3. Failure to timely request a hearing as provided shall constitute a waiver of the right to a hearing and a waiver of the right to challenge the city's action set out in the notice of violation. Such a failure to request a hearing will result in a default judgment being entered upholding the notice of violation and assessing accrued fees, penalties and costs.

C. Procedures At Business License Violation Appeal Hearings:

1. Informal In Nature: Business license violation appeal hearings are intended to be informal in nature. The formal Utah Rules of Evidence and Discovery do not apply; however, an informal exchange of relevant documents and other evidence may be required at the discretion of the administrative hearing officer.

2. Discovery Requests: Discovery requests must be in writing directed to the opposing party. Failure to timely request discovery shall preclude a continuance to enable additional discovery or investigation.

3. Personal Information Protected: A complainant's personal identifying information is protected and shall not be released unless the complainant is a witness at the hearing.

4. Burden Of Proof:

a. The city bears the burden of proof at a business license violation appeal hearing requested to substantively challenge a notice of business violation.

b. At a hearing challenging the suspension or revocation of a massage business license, the owner of the massage business will bear the burden of proof and persuasion with respect to the claim that a violation did not occur.

5. Standard Of Proof: The standard of proof to be used by the administrative hearing officer in deciding any issue at a business license violation appeal hearing is the preponderance of the evidence. A preponderance of the evidence shows what is more likely than not.

6. Activities Allowed To Support Case: Each party shall have the opportunity to cross examine witnesses and present evidence in support of his or her case. If approved in advance by the administrative hearing officer, testimony may be given by telephone or other electronic means.

7. Hearings Open To Public: All hearings are open to the public. Hearings shall be recorded to enable verbatim transcripts to be prepared as needed.

8. Representation By Attorney: The owner of a massage business may be represented by an attorney. If an attorney will be representing the owner at the hearing, notice of the attorney's name, address, and telephone number must be given to the city's business license official at least seventy two (72) hours prior to the hearing. If timely notice is not given, and an attorney appears for an owner, the hearing will be continued at the city's request, and any costs of the continuance will be assessed to the owner.

9. Fee Refund If Violation Dismissed: If the administrative hearing officer dismisses the notice of business license violation entirely, the hearing fee shall be refunded to the owner who paid it.

D. Failure To Attend A Business License Appeal Hearing: Any owner named in a business license notice of violation who fails to appear at a duly noticed hearing is deemed to waive the right to a hearing, which will result in a default judgment entered for the city as to that owner and massage business. (Ord. 2019-24, 9-10-2019)

4-12-17: APPEAL OF FINAL DETERMINATION OF BUSINESS LICENSE VIOLATION:

A. Judicial Review: Any person adversely affected by any final business license violation determination issued following a business license violation appeal hearing, may file a petition for review of the final business license violation appeal determination in the District Court within thirty (30) days after the date of the final business license violation appeal determination.

B. Exhaustion Of Administrative Remedies: No person may challenge in District Court a final business license violation appeal determination until that person has exhausted his or her administrative remedies.

C. Obtaining The Administrative Record For Judicial Review: Within thirty (30) days after submitting a petition for review in the District Court, the party petitioning for judicial review shall request a copy of the record of the business license violation appeal hearing, including transcripts if required by the District Court. The city shall not submit copies of files or transcripts to the reviewing court until the party petitioning for judicial review has paid all required copying and transcription costs. The petitioning party's failure to properly arrange for copies of the record, or to pay the full costs for the record, within sixty (60) days after the petition for review was filed shall be grounds for dismissal of the petition. The city shall have an additional sixty

(60) business days from the date of request to prepare and submit the requested file and/or transcript.

D. Possible Remand Back To City: If a transcript of a hearing cannot be prepared because the tape recording is incomplete or unintelligible, and there is no other reliable record of the business license violation appeal hearing otherwise available, the District Court may, in its discretion, remand the matter back to the city for a supplemental proceeding to create a usable record.

E. District Court Review On The Record: The District Court's review is limited to the evidence in the record of the business license violation appeal determination that is being reviewed, and not a new trial or hearing on the facts or evidence. The court shall not accept nor consider any evidence that is not part of the city's record.

F. Scope Of District Court Review; Burden Of Proof: The District Court shall:

1. Presume that the business license violation appeal determination on review is valid; and
2. Review the record to determine whether or not the evidence available to the administrative hearing officer shows that the order was arbitrary, capricious, or illegal.
3. The petitioner for review has the burden of proof before the District Court. (Ord. 2019-24, 9-10-2019)

4-12-18: VIOLATIONS AND ADMINISTRATIVE PENALTIES:

A. Any person who violates any provision of this chapter or any rule or regulation adopted pursuant to section 4-12-2 may, after being provided notice and an opportunity to be heard, be subject to the following monetary and license penalties. The business license official or administrative hearing officer may impose administrative fines and/or license penalties that exceed those listed below where the business license official or administrative hearing officer finds that such higher fines and/or penalties are necessary or appropriate to protect and promote the health and well-being of a massage business' employees, customers, and/or neighbors.

1. Massage Business Operating Without A Massage Business License:
 - a. Administrative Fine: Up to one thousand dollars (\$1,000.00) per day of operating without a license; and
 - b. License Penalty: Business location and owner of massage business ineligible for a massage business license for one hundred eighty (180) days.
 - c. Repeat Violations: Same penalties as A1a and A1b.
2. Massage Business Employing Any Person Under Eighteen (18) Years of Age:
 - a. Administrative Fine: None.
 - b. License Penalty: Mandatory revocation of massage business license. Massage business licensee ineligible for a subsequent license for one hundred eighty (180) days.

3. Solicitation Citations, Charges, Or Convictions, As Defined By Utah Code Annotated, For Anyone Working At Massage Establishment:

- a. Administrative Fine: Five thousand dollars (\$5,000.00) to be paid by massage establishment licensee; and
- b. License Penalty: Mandatory sixty (60) to one hundred twenty (120) days suspension of massage establishment license.
- c. Repeat Violations; Revocation: Licensee ineligible for a subsequent massage establishment license at any location for a period of two (2) years.

4. Trafficking Charges Or Convictions, As Defined By Utah Code Annotated, For Anyone Working At Massage Establishment:

- a. Administrative Fine: None.
- b. License Penalty; Revocation: Licensee ineligible for a subsequent massage establishment license at any location.
- c. Repeat Violations: Same penalty as A4b.

5. Massage Establishment Or Outcall Massage Service Employing Individual Without DOPL Certification To Administer Massage:

- a. Administrative Fine: One thousand dollars (\$1,000.00) to be paid by massage business licensee.
- b. License Penalty: None.
- c. Repeat Violations: Fifteen (15) to thirty (30) day suspension of massage business license and up to two thousand five hundred dollar (\$2,500.00) fine for second occurrence; thirty (30) to sixty (60) day suspension or revocation of massage business license, and up to five thousand dollars (\$5,000.00) fine for third occurrence.

6. Massage Facilities Used For Residential Sleeping Purposes:

- a. Administrative Fine: Up to one thousand dollars (\$1,000.00).
- b. License Penalty: None.
- c. Repeat Violations: Fifteen (15) to thirty (30) day suspension of massage business license and up to two thousand five hundred dollars (\$2,500.00) fine for second occurrence; thirty (30) to sixty (60) day suspension of massage business license and up to five thousand dollar (\$5,000.00) fine for third occurrence.

7. Presence Of Beds Instead Of Or In Addition To Massage Tables:

- a. Administrative Fine: One thousand dollars (\$1,000.00).
- b. License Penalty: None.

c. Repeat Violations: Fifteen (15) to thirty (30) day suspension of massage business license and up to two thousand five hundred dollar (\$2,500.00) fine for second occurrence; thirty (30) to sixty (60) day suspension of massage business license and up to five thousand dollar (\$5,000.00) fine for third occurrence.

8. Any Massage Service Provider Improperly Attired In Violation Of Section 4-12-11F:

a. Administrative Fine: Up to five hundred dollars (\$500.00) per person found to be improperly attired, to be paid by massage business licensee.

b. License Penalty: Sixty (60) day suspension of massage business license for each person found to be improperly attired.

c. Repeat Violations: Up to one thousand five hundred dollars (\$1,500.00) fine per person to be paid by massage business licensee for second and each subsequent occurrence; one hundred eighty (180) day suspension of massage therapist license and revocation of massage business license.

9. Sanitation Violations Pursuant To Section 4-12-11A:

a. Administrative Fine: None on first offense.

b. License Penalty: None on first offense.

c. Repeat Violations: Up to two hundred fifty dollars (\$250.00) fine and sixty (60) day suspension of massage business license.

10. Massage Business Operating Between The Hours Of Ten O'Clock (10:00) P.M. And Seven O'Clock (7:00) A.M.:

a. Administrative Fine: Up to one thousand dollars (\$1,000.00).

b. License Penalty: Fifteen (15) to thirty (30) day suspension of massage business license.

c. Repeat Violations: Thirty (30) to sixty (60) day suspension and up to two thousand five hundred dollars (\$2,500.00) for second occurrence; sixty (60) to ninety (90) day suspension and up to five thousand dollars (\$5,000.00) fine for third and each subsequent occurrence.

11. Anyone Engaged In Lewd Conduct Or Performing Sex Acts As Defined In Section 4-12-11F On Massage Business Premises:

a. Administrative Fine: Two thousand five hundred dollars (\$2,500.00) to be paid by massage business licensee; and

b. License Penalty: Revocation of massage business license.

c. Additional: License holder ineligible for subsequent massage business license for a period of five (5) years from the date of license revocation.

12. Failure To Post Notices As Required By Section 4-12-11I:

a. Administrative Fine: Written warning for first violation, two hundred fifty dollars (\$250.00) for second and each subsequent violation within twelve (12) months.

b. License Penalty: Thirty (30) day suspension of massage business license for third and subsequent violations.

13. Failure To Properly Display A Valid Massage Therapist Identification Badge, As Required By Section 4-12-11F:

a. Administrative Fine: Two hundred fifty dollars (\$250.00) to be paid by massage business; and

b. License Penalty: None.

c. Repeat Violations: Thirty (30) to sixty (60) day suspension and up to two thousand five hundred dollars (\$2,500.00) for second occurrence; sixty (60) to ninety (90) day suspension and up to five thousand dollars (\$5,000.00) fine for third and each subsequent occurrence.

14. Publishing Advertising In Violation Of Section 4-12-11M:

a. Administrative Fine: One thousand dollars (\$1,000.00) fine.

b. License Penalty: Thirty (30) day suspension of massage business license for second and subsequent violations.

15. Interfering With City Staff In Their Performance Of An Inspection, As Prohibited By Section 4-12-13A2:

a. Administrative Fine: One thousand dollars (\$1,000.00) fine to be paid by massage business licensee.

b. Repeat Violations: Two thousand five hundred dollar (\$2,500.00) fine and thirty (30) day suspension of massage business license for second occurrence; revocation of massage business license for third occurrence.

16. Equipping Interior Doors With Locks Or Locking Devices, Or Locking Exterior Doors, In Violation Of Section 4-12-11G:

a. Administrative Fine: Up to one thousand dollars (\$1,000.00).

b. License Penalty: Fifteen (15) to thirty (30) day suspension of massage business license.

c. Repeat Violations: Thirty (30) to sixty (60) day suspension and up to two thousand five hundred dollars (\$2,500.00) for second occurrence; sixty (60) to ninety (90) day suspension and up to five thousand dollar (\$5,000.00) fine for third and each subsequent occurrence.

17. All Other Violations Of State Or County Health Codes, And This Chapter's Massage Business Regulations:

a. Administrative Fine: Up to one thousand dollar (\$1,000.00) fine.

b. License Penalty: Possible suspension or revocation.

c. Repeat Violations: Up to two thousand five hundred dollar (\$2,500.00) fine for the second violation and possible license suspension or revocation; up to five thousand dollars (\$5,000.00) for the third and subsequent violations, and license suspension or revocation.

B. Notice To Property Owner: Written notice of each notice of violation that proposes to suspend or revoke a massage business license shall be served on the owner(s) of the property upon which the massage business is located, at the same time and in the same manner as required by section 4-12-15.

C. Payment And Collection Of Administrative Penalty And Enforcement Costs: Any administrative penalty and/or enforcement costs assessed under this chapter is a debt to the city and shall be paid to the city. Any amount paid late pursuant to section 4-1-11, shall be subject to an additional late fine of ten percent (10%) on the unpaid amount. The sum of the unpaid amount and the ten percent (10%) late fine shall accrue interest at the rate of one percent (1%) per month (or fraction thereof) until fully paid; any partial payments made shall first be applied to accrued interest. The city may file a civil action or pursue any other legal remedy to collect such unpaid amount, fine, and interest. In any civil action for collection, the city shall be entitled to obtain a judgment for the unpaid amounts, fine, and interest, and for the costs and attorneys' fees incurred by the city in bringing such civil action.

D. Lien For Administrative Penalty: Where an activity or condition on real property within the city has caused, contributed to, or been a substantial factor in causing the violation, the business license official may initiate proceedings to make any unpaid administrative penalty, enforcement costs, fine, and interest, and all additional authorized costs and attorneys' fees, a lien on the property. Such liens shall be imposed in accordance with section 1-16B-21, Utah state law, or any successor provisions. Before initiating lien proceedings, the business license official shall send a request for payment and clearly indicate the intent to initial lien proceedings.

E. No Bar To Criminal Prosecution: Nothing in this chapter shall preclude the prosecution of anyone under any other county or state health codes, or any other laws of the state of Utah, or the laws of the United States of America. (Ord. 2019-24, 9-10-2019)

4-12-19: ENFORCEMENT:

A. The city may at any time institute civil proceedings for injunctive and monetary relief including civil penalties, against any person for violations of this chapter, without regard to whether the business license official has issued a notice of violation, instituted abatement proceedings, scheduled or held a hearing on a notice of violation, or issued a final decision.

B At any time, the business license official may refer a case for civil enforcement, but a referral is not required for the city to bring a civil action under subsection A.

C. Action For Injunction And Civil Penalty: Any person that violates any provision of this chapter shall be enjoined and shall be subject to a civil penalty in an amount not to exceed one thousand dollars (\$1,000.00) for each day such violation is committed or permitted to continue,

which penalty shall be assessed and recovered in a civil action brought by the city in any court of competent jurisdiction. In assessing the amount of the civil penalty, the court shall consider any one or more of the relevant circumstances presented by any of the parties to the case, including but not limited to, the following: the nature and seriousness of the misconduct giving rise to the violation, the number of violations, the persistence of the misconduct, the length of time over which the misconduct occurred, the willfulness of the defendant's misconduct, and the defendant's assets, liabilities, and net worth.

D. Attorneys' Fees: The prevailing party in any court case or special proceeding to enforce this chapter shall recover reasonable attorneys' fees if the city elects, at the initiation of the action, to seek recovery of attorneys' fees and provides notice of such intention to the adverse party or parties. In no court case or special proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the city.

E. Remedies: Remedies under this chapter are non-exclusive and cumulative to all other remedies available at law or equity. (Ord. 2019-24, 9-10-2019)

4-12-20: COOPERATIVE EFFORTS WITH LAW ENFORCEMENT:

The business license official shall work with the chief of police on issues of common concern affecting the massage industry, such as protections against violence in massage establishments, crimes against massage practitioners, forced labor, or trafficking. (Ord. 2019-24, 9-10-2019)

4-12-21: UNDERTAKING FOR THE GENERAL WELFARE:

In regulating massage businesses and massage services as provided in this chapter, the city is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury. (Ord. 2019-24, 9-10-2019)

4-12-22: SEVERABILITY:

If any of the provisions of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of this chapter, including the application of such part or provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this chapter are severable. (Ord. 2019-24, 9-10-2019)

4-12-23: NO CONFLICT WITH STATE OR FEDERAL LAW:

Nothing in this chapter shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any federal or state law.

Title 4 – Business and License Regulations, is hereby amended by enacting Chapter 14 – Mobile Food Vendors to read as follows:

Chapter 14 Mobile Food Vendors

SECTION:

- 4-14-1 : Applicability
- 4-14-2 : License Required
- 4-14-3 : Definitions
- 4-14-4 : Permitted Locations
- 4-14-5 : Insurance Requirements
- 4-14-6 : Prohibited Acts

4-14-1 : APPLICABILITY:

In addition to all rules and regulations set forth in Chapter 1 of this title, the regulations contained in this chapter shall apply to mobile food vendor businesses.

4-14-2 : LICENSE REQUIRED:

It is unlawful for any person to operate, conduct, carry on, or maintain mobile food vending without a business license. All mobile food vendors must be able to produce a valid business license, health department food truck permit, and evidence of a successful fire safety inspection upon request by a City official.

A. Separate License Required: A separate business license shall be required for each mobile food vending unit.

B. Health Department Permit and Fire Safety Inspection: Prior to issuance of a city license, vendors must obtain a health department permit from the local health department that has jurisdiction over the area in which a majority of the food truck's operations occur. Such permit must remain in force during the license period. A vendor must also pass a fire safety inspection performed by the North Davis Fire District, or show that it passed a fire safety inspection by another political subdivision within the current calendar year.

C. Fees: The license fees for a mobile food vendor shall be set by resolution of the City Council and published in the City fee schedule.

1. A mobile food vendor currently licensed in another political subdivision within the state will be issued a Clearfield license matching the expiration date.

2. A mobile food vendor who does not submit an active license certificate from another political subdivision will be issued a license for 12 months.

4-14-3 : DEFINITIONS:

In addition to the definitions set forth in other sections of this code, the following words and phrases used in this chapter shall have the meanings herein prescribed:

CITY OWNED PROPERTY: City property shall include all parks, open space, parcels containing City operations, buildings, rights of way, and all other such properties. City owned property includes all parking lots on these properties.

MOBILE FOOD VENDOR UNIT: An enclosed truck, trailer, or similar vehicle mounted unit that is:

1. A licensed motor vehicle or is capable of being moved by a licensed motor vehicle;
2. Independent with respect to water, wastewater, and power utilities; and
3. Used for the preparation, sale, or donation of food products and beverages.

The definition of mobile food vendor unit shall not include vending carts or ice cream trucks. 4-14-4: PERMITTED LOCATIONS:

Mobile Food Vending on Private Property: Vendors may only operate on private property with the express prior written permission of a person with authority to act on behalf of the property owner.

Mobile Food Vending on City Owned Property in City Rights of Ways: Mobile food vending is allowed on designated city owned property, not including city rights of way, only in the following circumstances:

1. City parks: As part of an approved pavilion or field rental or by invitation of the individual that rented the pavilion.
2. City sponsored events on City owned property: In an assigned locations and by invitation of the city.

4-14-5: INSURANCE REQUIREMENTS:

Any application for a permit as herein provided shall be accompanied by a certificate of insurance naming Clearfield City as an additional insured. Such commercial general liability insurance shall be in a sum no less than \$1,000,000 per occurrence and \$2,000,000 aggregate for bodily injury, property damage, personal & advertising injury, and products & completed operations liability. In addition, automobile insurance shall be in a sum not less than \$1,000,000 per occurrence. No city officer or licensing agent or other representative of the city shall in any event issue any permit hereinabove referred to until such certificate of insurance has been furnished and passed upon by the city attorney or designee to form and sufficiency.

Section 2. Repealer: Any provision or ordinances that are in conflict with this ordinance are hereby repealed.

Section 3. Effective Date: This Ordinance shall become effective immediately upon its posting in three public places within Clearfield City.

DATED this 25th day of November, 2025, at the regularly scheduled meeting of the Clearfield City Council.

CLEARFIELD CITY CORPORATION

Mark R. Shepherd, Mayor

ATTEST

Nancy R. Dean, City Recorder

VOTE OF THE COUNCIL

AYE:

NAY:

CLEARFIELD CITY ORDINANCE 2025-25

AN ORDINANCE AMENDING THE 2025 CLEARFIELD CITY GENERAL PLAN BY ADDING THE WATER ELEMENT

PREAMBLE: This Ordinance amends Clearfield City's General Plan by adding the Water Use and Preservation Plan as an element.

WHEREAS, in July 2025, Clearfield City adopted an updated General Plan; and

WHEREAS, the purpose of the amendment was to include the Water Use and Preservation Plan as an element as required by Utah Code Annotated § 10-20-401 and § 73-10-32; and

WHEREAS, after a public hearing on the matter, the Clearfield City Planning Commission recommended the Clearfield City Council approve the amendment of the 2025 Clearfield City General Plan by adding the Water Use and Preservation Plan as an element; and

WHEREAS, the Clearfield City Council received and reviewed the recommendation of the Clearfield City Planning Commission; and

WHEREAS, following proper notice, as set forth by State Law, the City Council held a public hearing on the matter and received input thereon; and

WHEREAS, after the public hearing, the City Council carefully considered any comments made during the public hearing as well as the Planning Commission's recommendations regarding the proposed amendment to the 2025 Clearfield City General Plan; and

WHEREAS, following its public deliberation, the City Council has determined that the proposed amendment to the 2025 General Plan meets the needs of the City in the above mentioned areas;

NOW THEREFORE BE IT ORDAINED, by the Clearfield City Council that:

Section 1. Amendment to the 2025 Clearfield City General Plan: The Water Use and Preservation Plan is hereby approved as an element in the 2025 Clearfield City General Plan.

Section 2. Effective Date: This Ordinance shall become effective only upon its posting in three public places within Clearfield City.

DATED this 25th day of November, 2025, at the regularly scheduled meeting of the Clearfield City Council.

CLEARFIELD CITY CORPORATION

Mark R. Shepherd, Mayor

ATTEST

Nancy R. Dean, City Recorder

VOTE OF THE COUNCIL

AYE:

NAY:

TO: Mayor Shepherd and City Council Members

FROM: Braden Felix, Assistant Public Works Director

MEETING DATE: November 25, 2025

SUBJECT: Amendment to Interlocal Agreement with Davis County for 500 West Funding

RECOMMENDED ACTION

Approve the contract amendment as presented.

DESCRIPTION / BACKGROUND

In 2021, the city entered into an Interlocal Agreement with Davis County to receive 3rd Quarter Sales Tax in an amount totaling \$2 million as a reimbursement for the 500 West Extension project. The project only required \$1,511,206.96, leaving a balance of \$488,237.22. When the need for the 1st Street extension came up, the County agreed to give the remaining balance to the City as a reimbursement for the next phase of the previous project. Because the previous agreement has expired, this amendment reinstates it and allows us to draw that \$488k.

CORRESPONDING POLICY PRIORITIES

- Improving Clearfield's Image, Livability, and Economy

This was part of the basis of the 1st Street project funding. The road is built and being used.

HEDGEHOG SCORE

22

FISCAL IMPACT

\$488,237.22 to the City

LIST OF ATTACHMENTS

- Clearfield 500 West Extension Contract (Original Contract)
- Resolution 2025-14 Authorizing Amendment 1 to the Clearfield 500 West Extension Contract

INTERLOCAL COOPERATION TRANSPORTATION
PROJECT REIMBURSEMENT AGREEMENT

This Interlocal Cooperation Transportation Project Reimbursement Agreement (this “Agreement”) is made and entered into by and between Davis County, a political subdivision of the state of Utah (the “County”), and Clearfield City, a municipal corporation of the state of Utah (the “City”). The County and the City may be collectively referred to as the “Parties” herein or may be solely referred to as a “Party” herein.

Recitals

A. WHEREAS, the Parties, pursuant to Utah’s Interlocal Cooperation Act, which is codified at Title 11, Chapter 13, Utah Code Annotated (the “Act”), are authorized to enter into in this Agreement; and

B. WHEREAS, Utah Code Annotated §59-12-2217, the County Option Sales and Use Tax for Transportation Fund provide the opportunity for a Council of Governments and the local legislative body to prioritize and approve funding for transportation projects that are included in the area’s Regional Transportation Plan; and

C. WHEREAS, The Davis County Council of Governments (COG) is the council of governments with the authority to work with Davis County, the local legislative body, to prioritize and approve funding for such transportation projects; and

D. WHEREAS, the County, on or about May 22, 2020, requested the cities located within Davis County, the Utah Department of Transportation (“UDOT”), and the Utah Transit Authority (“UTA”) to submit applications for a limited portion of the County’s 2020 3rd Quarter transportation sales tax revenue to be used for qualifying transportation projects; and

E. WHEREAS, the City, on or about June 30, 2020, submitted a *Davis County 3rd Quarter Funding Application* (the “Application”) to the County for the 500 West Extension (the “Project”), a copy of the Application is attached as Exhibit A to this Agreement, incorporated into this Agreement by this reference, and made a part of this Agreement; and

F. WHEREAS, The COG accordingly approved such request on October 21, 2020 and subsequently sent a recommendation to the Davis County Commission requesting approval, and such request was approved by the County Commission on October 27, 2020; and

G. WHEREAS, the City desires to commence and complete the Project in a manner consistent with the Application and as further set forth in this Agreement; and

H. WHEREAS, the County desires to grant the Application and partially reimburse the City for the permitted or authorized costs, expenses, or otherwise incurred by the City in connection with the Project in a manner consistent with the terms and provisions of this Agreement.

NOW, for and in consideration of the mutual promises, obligations, and/or covenants contained herein, and for other good and valuable consideration, the receipt, fairness, and sufficiency of which are hereby acknowledged, and the Parties intending to be legally bound, the Parties do hereby mutually agree as follows:

1. The City’s Duties, Obligations, Responsibilities, or Otherwise.

a. The City shall commence and complete all material aspects of the Project in a manner consistent with the Application within two years from the date that this Agreement is executed by the City and the County; and

b. The City shall be fully and solely responsible for all costs, expenses, or otherwise related to the Project; and

c. The City shall be solely responsible for operating and maintaining the Project including, but not limited to, all costs, expenses, or otherwise related to the operation and/or maintenance of the Project; and

d. The City shall ensure that the Project complies with the American Public Works Association (“APWA”) standards and all other federal, state, or local laws, regulations, rules, requirements, codes or otherwise that are applicable to the Project; and

2. The County’s Duties, Obligations, Responsibilities, or Otherwise. The County shall reimburse the City in an amount up to 80% of the total permitted or authorized costs and/or expenses of the Project as identified in the Application, incorporated herein by this reference, and made a part of this Agreement, not to exceed \$2,000,000, only upon all of the following being timely and completely satisfied by the City:

a. The City commences and completes the Project in a manner consistent with the Application within two years from the date that this Agreement is executed by the City and the County; and

b. The City notifies the County of its timely completion of the Project and provides the County with a detailed breakdown of all expenses, costs, or other approved match payments paid by the City in connection with the Project.

3. Effective Date of this Agreement. The Effective Date of this Agreement shall be on the earliest date after this Agreement satisfies the requirements of Title 11, Chapter 13, Utah Code Annotated (the “Effective Date”).

4. Term of Agreement. The term of this Agreement shall begin upon the Effective Date of this Agreement and shall, subject to the termination and other provisions set forth herein, terminate fifty years from the Effective Date of this Agreement.

5. Termination of Agreement. This Agreement may be terminated prior to the completion of the Term by any of the following actions:

a. The mutual written agreement of the Parties;

b. By either party:

1) After any material breach of this Agreement; and

2) Thirty calendar days after the nonbreaching party sends a demand to the breaching party to cure such material breach, and the breaching party fails to timely cure such material breach; provided however, the cure period shall be extended as may be required beyond the thirty calendar days, if the nature of the cure is such that it reasonably requires more than thirty calendar days to cure the breach, and the breaching party commences the cure within the thirty calendar day period and thereafter continuously and diligently pursues the cure to completion; and

3) After the notice to terminate this Agreement, which the non-breaching party shall provide to the breaching party, is effective pursuant to the notice provisions of this Agreement; and

c. As otherwise set forth in this Agreement or as permitted by law, ordinance, rule, regulation, or otherwise.

6. Notices. Any notices that may or must be sent under the terms and/or provisions of this Agreement should be delivered, by hand delivery or by United States mail, postage prepaid, as follows, or as subsequently amended in writing:

<u>To the City:</u> Clearfield City Attention: City Manager 55 South State Street Clearfield, UT 84015	<u>To the County:</u> Davis County Attn: Chair, Davis County Board of Commissioners P.O. Box 618 Farmington, UT 84025
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7. Damages. The Parties acknowledge, understand, and agree that, during the Term of this Agreement, the Parties are fully and solely responsible for their own actions, activities, or business sponsored or conducted.

8. Indemnification and Hold Harmless. The City, for itself, and on behalf of its officers, officials, employees, agents, representatives, contractors, volunteers, and/or any person or persons under the supervision, direction, or control of the City (collectively, the “City Representatives”), agrees and promises to indemnify, save and hold harmless the County, as well as the County’s officers, officials, employees, agents, representatives, contractors, and volunteers (collectively, the “County Representatives”), from and against any loss, damage, injury, liability, claim, action, cause of action, demand, expense, cost, including defense costs, fee, or otherwise (collectively, the “Claims”) that may arise from, may be in connection with, or may relate in any way to this Agreement, the Project, and/or the negligent acts or omissions of the City and/or the City Representatives, whether or not the Claims are known or unknown, or are in law, equity, or otherwise. The City, for itself, and on behalf of the City Representatives, agrees and promises that all costs, including defense costs, expenses, or otherwise relating to the Claims and incurred by County or the County Representatives or which the County or the County Representatives would otherwise be obligated to pay, shall be paid in full by the City within thirty (30) calendar days after the County provides the City with documents evidencing such costs, including, if applicable, defense costs, expenses, or otherwise. No term or condition of this Agreement, including, but not limited to, insurance that may be required under this Agreement, shall limit or waive any liability that the City may have arising from, in connection with, or relating in any way to this Contract, the Project, and/or the negligent acts or omissions of the City or the City Representatives.

9. Governmental Immunity. The Parties recognize and acknowledge that each Party is covered by the *Governmental Immunity Act of Utah*, codified at Section 63G-7-101, et seq., *Utah Code Annotated*, as amended, and nothing herein is intended to waive or modify any and all rights, defenses or provisions provided therein. Officers and employees performing services pursuant to this Agreement shall be deemed officers and employees of the Party employing their services, even if performing functions outside of the territorial limits of such party and shall be deemed officers and employees of such Party under the provisions of the *Utah Governmental Immunity Act*.

10. No Separate Legal Entity. No separate legal entity is created by this Agreement.

11. Approval. This Agreement shall be submitted to the authorized attorney for each Party for review and approval as to form in accordance with applicable provisions of Section 11-13-202.5, *Utah Code Annotated*, as amended. This Agreement shall be authorized and approved by resolution or ordinance of the legislative body of each Party in accordance with Section 11-13-202.5, *Utah Code Annotated*, as amended, and a duly executed original counterpart of this Agreement shall be filed with the keeper of records of each Party in accordance with Section 11-13-209, *Utah Code Annotated*, as amended.

12. Survival after Termination. Termination of this Agreement shall not extinguish or prejudice either Party’s right to enforce this Agreement, or any term, provision, or promise under this

Agreement, regarding insurance, indemnification, defense, save or hold harmless, or damages, with respect to any uncured breach or default of or under this Agreement.

13. Benefits. The Parties acknowledge, understand, and agree that the respective representatives, agents, contractors, officers, officials, members, employees, volunteers, and/or any person or persons under the supervision, direction, or control of a Party are not in any manner or degree employees of the other Party and shall have no right to and shall not be provided with any benefits from the other Party. County employees, while providing or performing services under or in connection with this Agreement, shall be deemed employees of the County for all purposes, including, but not limited to, workers compensation, withholding, salary, insurance, and benefits. City employees, while providing or performing services under or in connection with this Agreement, shall be deemed employees of the City for all purposes, including, but not limited to, workers compensation, withholding, salary, insurance, and benefits.

14. Waivers or Modification. No waiver or failure to enforce one or more parts or provisions of this Agreement shall be construed as a continuing waiver of any part or provision of this Agreement, which shall preclude the Parties from receiving the full, bargained for benefit under the terms and provisions of this Agreement. A waiver or modification of any of the provisions of this Agreement or of any breach thereof shall not constitute a waiver or modification of any other provision or breach, whether or not similar, and any such waiver or modification shall not constitute a continuing waiver. The rights of and available to each of the Parties under this Agreement cannot be waived or released verbally, and may be waived or released only by an instrument in writing, signed by the Party whose rights will be diminished or adversely affected by the waiver.

15. Binding Effect; Entire Agreement, Amendment. This Agreement is binding upon the Parties and their officers, directors, employees, agents, representatives and to all persons or entities claiming by, through or under them. This Agreement, including all attachments, if any, constitutes and/or represents the entire agreement and understanding between the Parties with respect to the subject matter herein. There are no other written or oral agreements, understandings, or promises between the Parties that are not set forth herein. Unless otherwise set forth herein, this Agreement supersedes and cancels all prior agreements, negotiations, and understandings between the Parties regarding the subject matter herein, whether written or oral, which are void, nullified and of no legal effect if they are not recited or addressed in this Agreement. Neither this Agreement nor any provisions hereof may be supplemented, amended, modified, changed, discharged, or terminated verbally. Rather, this Agreement and all provisions hereof may only be supplemented, amended, modified, changed, discharged, or terminated by an instrument in writing, signed by the Parties.

16. Force Majeure. In the event that either Party shall be delayed or hindered in or prevented from the performance of any act required under this Agreement by reason of acts of God, acts of the United States Government, the State of Utah Government, fires, floods, strikes, lock-outs, labor troubles, inability to procure materials, failure of power, inclement weather, restrictive governmental laws, ordinances, rules, regulations or otherwise, delays in or refusals to issue necessary governmental permits or licenses, riots, insurrection, wars, or other reasons of a like nature not the fault of the Party delayed in performing work or doing acts required under the terms of this Agreement, then performance of such act(s) shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay, without any liability to the delayed Party.

17. Assignment Restricted. The Parties agree that neither this Agreement nor the duties, obligations, responsibilities, or privileges herein may be assigned, transferred, or delegated, in whole or in part, without the prior written consent of both of the Parties.

18. Choice of Law; Jurisdiction; Venue. This Agreement and all matters, disputes, and/or claims arising out of, in connection with, or relating to this Agreement or its subject matter, formation or

validity (including non-contractual matters, disputes, and/or claims) shall be governed by, construed, and interpreted in accordance with the laws of the state of Utah, without reference to conflict of law principals. The Parties irrevocably agree that the courts located in Davis County, State of Utah (or Salt Lake City, State of Utah, for claims that may only be litigated or resolved in the federal courts) shall have exclusive jurisdiction and be the exclusive venue with respect to any suit, action, proceeding, matter, dispute, and/or claim arising out of, in connection with, or relating to this Agreement, or its formation or validity. The Parties irrevocably submit to the exclusive jurisdiction and exclusive venue of the courts located in the State of Utah as set forth directly above. Anyone who unsuccessfully challenges the enforceability of this clause shall reimburse the prevailing Party for its attorneys' fees, and the Party prevailing in any such dispute shall be awarded its attorneys' fees.

19. Severability. If any part or provision of this Agreement is found to be invalid, prohibited, or unenforceable in any jurisdiction, such part or provision of this Agreement shall, as to such jurisdiction only, be inoperative, null and void to the extent of such invalidity, prohibition, or unenforceability without invalidating the remaining parts or provisions hereof, and any such invalidity, prohibition, or unenforceability in any jurisdiction shall not invalidate or render inoperative, null or void such part or provision in any other jurisdiction. Those parts or provisions of this Agreement, which are not invalid, prohibited, or unenforceable, shall remain in full force and effect.

20. Rights and Remedies Cumulative. The rights and remedies of the Parties under this Agreement shall be construed cumulatively, and none of the rights and/or remedies under this Agreement shall be exclusive of, or in lieu or limitation of, any other right, remedy or priority allowed by law, unless specifically set forth herein.

21. No Third-Party Beneficiaries. This Agreement is entered into by the Parties for the exclusive benefit of the Parties and their respective successors, assigns and affiliated persons referred to herein. Except and only to the extent provided by applicable statute, no creditor or other third party shall have any rights or interests or receive any benefits under this Agreement. Notwithstanding anything herein to the contrary, the County is expressly authorized by the City to enter into similar agreements with any or all of the other cities, or other governmental or quasi-governmental entities, located within Davis County.

22. Recitals Incorporated. The Recitals to this Agreement are incorporated herein by reference and made contractual in nature.

23. Headings. Headings contained in this Agreement are intended for convenience only and are in no way to be used to construe or limit the text herein.

24. Authorization. The persons executing this Agreement on behalf of a Party hereby represent and warrant that they are duly authorized and empowered to execute the same, that they have carefully read this Agreement, and that this Agreement represents a binding and enforceable obligation of such Party.

25. Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered, shall be deemed an original, and all such counterparts taken together shall constitute one and the same Agreement.

[This space is left blank intentionally. The signature page follows.]

WHEREFORE, the Parties have signed this Agreement on the dates set forth below.

CLEARFIELD CITY

Mayor

Dated:_____

ATTEST:

Clearfield City Recorder

Dated:_____

APPROVED AS TO FORM AND LEGALITY:

Clearfield City Attorney

Dated:_____

DAVIS COUNTY

Chair, Davis County Board of Commissioners

Dated:_____

ATTEST:

Davis County Clerk/Auditor

Dated:_____

APPROVED AS TO FORM AND LEGALITY:

Davis County Attorney's Office, Civil Division

Dated:_____

EXHIBIT A

EXHIBIT B

CLEARFIELD CITY RESOLUTION 2025R-14

A RESOLUTION APPROVING AMENDMENT NO. 1 TO THE INTERLOCAL COOPERATION PROJECT REIMBURSEMENT AGREEMENT BETWEEN DAVIS COUNTY AND CLEARFIELD CITY (THE “PARTIES”) REGARDING THE 500 WEST EXTENSION PROJECT.

WHEREAS, the Parties, previously entered into an Interlocal Cooperation Transportation Project Reimbursement Agreement, dated October 12, 2021, by the County, and identified in the County’s records as Resolution 2021-503 (the “Agreement”) and pursuant to Utah’s Interlocal Cooperation Act, which is codified at Title 11, Chapter 13, Utah Code Annotated (the “Act”), are authorized to enter into in this Agreement; and

WHEREAS, the Parties, through an Amendment, desire to amend the Agreement as set forth in the attached Exhibit A, known as Amendment No. 1 to Interlocal Cooperation Transportation Project Reimbursement Agreement; and

NOW, THEREFORE, be it resolved by the Clearfield City Council that the attached Amendment No 1 to Interlocal Cooperation Project Reimbursement Agreement is hereby approved and the Mayor is authorized to execute the agreement.

DATED this 25th day of November 2025 at the regularly scheduled meeting of the Clearfield City Council.

ATTEST:

CLEARFIELD CITY CORPORATION

Nancy R. Dean, City Recorder

Mark R. Shepherd, Mayor

VOTE OF THE COUNCIL

AYE:

NAY:

AMENDMENT NO. 1 TO INTERLOCAL COOPERATION
TRANSPORTATION PROJECT REIMBURSEMENT AGREEMENT

This Amendment No. 1 to Interlocal Cooperation Transportation Project Reimbursement Agreement (this “Amendment”) is between Davis County, a body corporate and politic and a legal subdivision of the State of Utah (“County”), and Clearfield City, a municipal corporation, body politic, and political subdivision of the State of Utah (“City”). The County and the City may be referred to collectively as the “Parties” in this Amendment.

WHEREAS, the Parties previously entered into an Interlocal Cooperation Transportation Project Reimbursement Agreement, dated October 12, 2021, by the County, and identified in the County’s records as Resolution 2021-503 (the “Agreement”).

WHEREAS, the Parties, through this Amendment, desire to amend the Agreement as set forth below.

The Parties therefore agree as follows:

1. Section 2 of the Agreement is omitted and replaced with the following:
 - 2. The County’s Duties, Obligations, Responsibilities, or Otherwise.** The County shall reimburse the City in an amount up to 80% of the total permitted or authorized costs or expenses of the Project, not to exceed \$2,000,000.00, only upon all of the following being timely and completely satisfied by the City:
 - a. The City commences and completes the full scope of the Project in a manner consistent with the Application on or before November 30, 2025; and
 - b. The City notifies the County of its timely completion of the Project and provides the County with a detailed breakdown of all expenses, costs, or other approved match payments paid by the City in connection with the Project.
2. The effective date of this Amendment will be the date that this Amendment is signed by both Parties.
3. The terms and conditions of the Agreement shall remain in full force and effect, except to the extent specifically modified by this Amendment.
4. This Amendment may be executed in counterparts, each of which shall be deemed an original, and all such counterparts shall constitute one and the same contract. Digital signatures and signatures transmitted by facsimile or e-mail shall have the same force and effect as original signatures.

[Signature Page Follows]

The Parties hereto have caused this Amendment to be signed by their duly authorized representatives on the dates indicated below.

DAVIS COUNTY By: _____ Lorene Minor Kamalu, Chair Board of Davis County Commissioners Date: _____ ATTEST: _____ Brian McKenzie Davis County Clerk Date: _____ Reviewed as to Proper Form and Compliance with Applicable Law: _____ Authorized Attorney for Davis County	CLEARFIELD CITY By: _____ Printed Name: _____ Title: _____ Date: _____ ATTEST: _____ Printed Name: _____ Title: _____ Date: _____ Reviewed as to Proper Form and Compliance with Applicable Law: _____ Authorized Attorney for Clearfield City
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